



MANITOBA OFF-ROAD VEHICLE POLICY

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INTRODUCTION

This is Your Off-Road Vehicle Policy. Together with the Manitoba Off-Road Vehicles Act and the Manitoba Public Insurance Corporation Act this Policy details the contract between You and Insurer. Please read Your Policy carefully and consult the Manitoba Off-Road Vehicles Act, the Manitoba Off-Road Vehicle Insurance Coverage Regulation, and the Manitoba Public Insurance Corporation Act so You know Your rights and obligations and the obligations of the Insurer.

Where:

- (a) an applicant for a contract:**
 - (i) gives false particulars of the described automobile to be insured to the prejudice of the Insurer; or**
 - (ii) knowingly misrepresents or fails to disclose in the application any fact required to be stated therein;**
 - (b) the Insured contravenes a term of the contract or commits fraud; or**
 - (c) the Insured willfully makes a false statement in respect to a claim under the contract;**
- a claim by the Insured is invalid and the right of the Insured to recover indemnity is forfeited.**

THIS POLICY CONTAINS A PARTIAL PAYMENT OF LOSS CLAUSE

INSURING AGREEMENTS

In consideration of the premium specified and of the statements contained in Your Application for Off-Road Vehicle Insurance subject to the Statutory Conditions, limits provisions, exclusions, endorsements and conditions contained herein and subject, insofar as applicable, to the terms, conditions, provisions, definitions and exclusions specified in the Off-Road Vehicle Insurance Coverage Regulation under The Manitoba Public Insurance Corporation Act, as from time to time amended, the Insurer agrees to indemnify the Insured against those perils for which a limit or amount of insurance is specified in this contract but only for those Off-Road Vehicle(s) as described on Your Certificate of Automobile Insurance.

All amounts of insurance, premiums and other amounts as expressed in this Policy are in Canadian currency.

The Certificate of Automobile Insurance summarizes the Insurance coverage You have selected and the premiums, limits, amounts and deductibles that apply to them. Among other things, the Certificate of Automobile Insurance also identifies the Policyholder, the Policy term and any endorsements that apply to Your insurance coverage.

Only losses that occur within the Policy term shown on the Certificate of Automobile Insurance will be covered under this Policy. There will be no coverage for any loss that occurred or was in progress prior to the Policy period inception date or after the Policy period expiry date shown on the Certificate of Automobile Insurance.

Insurance cannot be a source of profit. It is only designed to indemnify You against actual losses incurred by You or for which You are liable.

This Policy is subject to all terms and conditions of the Manitoba Public Insurance Corporation Act and the Off-Road Vehicle Insurance Coverage Regulation, as well as all conditions stated in this Policy. If there is a conflict between the Act and/or Regulation and this Policy wording, the wordings of Your Off-Road Vehicle Policy will prevail.

DEFINITIONS

"You" or "Your" means the person(s) named as Insured on the Certificate of Automobile Insurance.

"We", "Us" or "Insurer" means LLOYD'S with respect to Section A – Third Party Liability and Section B – Accident Benefits, and ELITE INSURANCE COMPANY with respect to Section C - Loss Or Damage To Described Automobile.

"The Act" means The Manitoba Public Insurance Corporation Act.

"The Regulation" means the Off-Road Vehicle Insurance Coverage Regulation under The Manitoba Public Insurance Corporation Act.

"Automobile", for the purposes of this Policy only, is hereby defined as an Off-Road Vehicle as described on Your Certificate of Automobile Insurance.

"Described Automobile" means the Automobile listed on Your Certificate of Automobile Insurance.

"Off-Road Vehicle" means any wheeled or tracked motorized vehicle designed or adapted for cross-country travel on land, water, ice, snow, marsh, swamp land or other natural terrain and includes, and is limited to,

- (a) a snowmobile,
- (b) an all-terrain vehicle (ATV)
- (c) a dirt-bike or trail-bike,

but does not include an implement of husbandry, farm tractor, special mobile machine, garden tractor, lawn tractor, golf cart, mini bike, a miniature vehicle such as a dune or sport buggy, an off-road maintenance machine, or a four-wheel drive motor vehicle, motorcycle or snow vehicle that is being driven elsewhere than on a highway, whether or not it is registered under The Drivers and Vehicles Act.

"ATV" means the all terrain vehicle(s) described on the Certificate of Automobile Insurance, including any permanently attached equipment or accessories. An "All Terrain Vehicle" is defined as an off-road vehicle that

- (a) operates or travels on four or more low-pressure tires;
- (b) has a seat designed to be straddled by the operator of the vehicle, or has side-by-side seating; and
- (c) has handlebars or a steering wheel for steering the vehicle.

"Dirt-Bike" or "Trail-Bike" means the off-road motorcycle(s) described on the Certificate of Automobile Insurance, including any permanently attached equipment or accessories. A "Dirt-Bike" or "Trail-Bike" is defined as an off-road vehicle that

- (a) operates or travels on two wheels;
- (b) is not licensed for use on public roads.

"Snowmobile" means the snowmobile(s) described on the Certificate of Automobile Insurance, including any permanently attached equipment or accessories. A "Snowmobile" is defined as a vehicle that has a gross vehicle weight not exceeding 454 kilograms and

- (a) is not equipped with wheels, but in place thereof is equipped with tractor treads alone or with tractor treads and skis, or with skis and a propeller, or is a toboggan equipped with tractor treads or a propeller,
- (b) is designed primarily for operating over snow or ice, and is used primarily for that purpose, and
- (c) is designed to be self-propelled.

"Occupant" means a person driving, being carried in or upon or entering or getting on to or alighting from the Described Automobile.

"Actual Cash Value" means various factors shall be considered in the determination of actual cash value. Such factors shall include but are not limited to replacement cost less any depreciation and market value. In determining depreciation consideration shall be given to the condition of the property immediately before the loss or damage, the resale value, the normal life expectancy of the property and obsolescence.

**SECTION A – EXCESS THIRD PARTY LIABILITY and EXCESS UNDERINSURED MOTORIST PROTECTION
THIS COVERAGE PROVIDED BY LLOYD'S**

EXCESS THIRD PARTY LIABILITY

The people insured under this section are the same as those under your Manitoba Public Insurance compulsory Basic Insurance Third Party Liability Coverage.

Coverage provided by this contract that extends the limit of coverage that is specified in a certificate or a policy is provided on the same terms and conditions that are extended, except in respect of a prohibition, exclusion or different limit of coverage that is permitted by the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder*.

The Insurer agrees to extend the limit of third party liability provided to the Insured by Manitoba Public Insurance (referred to as MPI hereon in) under the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder* to the amount shown on the Application and/or Declaration. Coverage provided by MPI is the first loss motor vehicle liability insurance, and Coverage under this section provided by the Insurer is limited to the amount indicated on the Application and/or Declaration reduced by the third party liability limit that is provided by MPI under the basic coverage under the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder*.

This policy is written subject to the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder* that requires that if an insured places optional excess Third Party Liability insurance coverages none of which is excess to the others, with more than one insurer, the insured is only covered up to the highest limit with any one insurer.

SPECIAL PROVISIONS SECTION A – EXCESS THIRD PARTY LIABILITY

1) The Excess Insurer's ultimate net loss liability shall not exceed the limit stated in the Application and/or Declaration in excess of the limit(s) of the first loss policy, and the underlying excess policy(ies) 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.

The phrase "ultimate net loss" used in this policy means the amount payable in settlement of the liability of the Insured after making deductions for all recoveries and for other valid and collectible insurance excepting the first loss and underlying policy(ies) and shall exclude all expenses and costs.

2) The word "costs" used in this policy means interest accruing after entry of judgment upon that part of the judgment which is within the limit of the Excess Insurer's liability, investigation, adjustment and legal expenses, excluding, however, all office expenses of the Insured, all expenses of salaried employees of the Insured and general retainer fees for counsel normally paid by the Insured.

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) then no cost 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 not 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 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 Insurer 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 Insured under this policy shall in any way operate to increase the limit of liability set forth in the Application and/or Declaration.

7) Notwithstanding Statutory Condition 4 or any similar condition in a first loss vehicle policy issued to the Insured by MPI, the Insured is only required to give the Excess Insurer notice of any accident if the claim or claims possibly arising there from appear likely to exceed the limit of the first loss policy, in which case immediate written notice thereof must be given to the Excess Insurer or its agent mentioned in the Application and/or Declaration.

8) Nothing in Statutory Condition 8 shall in any way affect the operation of the provision in the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder* providing that where the limit of coverage specified in a certificate or a policy that is extended by an optional insurance contract is terminated, the coverage in the optional coverage excess contract is automatically terminated. In the event that this policy is automatically terminated, the Excess Insurer agrees to refund the excess of premium actually paid over the proportionate premium for the expired term (subject to any minimum retained premium specified) as soon as practicable, but if there is any proportionate premium unpaid the Insured agrees to pay this.

Unless otherwise defined in this policy words and phrases used in this policy have the meaning given to them by the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder* and apply to this policy even if in the context of the Act or Regulation they apply only to the universal compulsory vehicle insurance.

EXCESS UNDERINSURED MOTORIST PROTECTION

The people insured under this section are the same as those under your MPI compulsory Basic Insurance Underinsured Motorist Protection.

Coverage provided by this contract that extends the limit of coverage that is specified in a certificate or a policy is provided on the same terms and conditions of the contract that is extended, except in respect of a prohibition, exclusion or different limit of coverage that is permitted by the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder*

IN CONSIDERATION of the payment of the premium specified and of the statements contained in the Application and/or Declaration 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 of the first loss underinsured motorist protection insurance, as described in the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder*, which insurance is provided to the Insured by MPI, and the terms, conditions, general provisions, definitions and exclusions of which are by reference incorporated herein, the Excess Insurer agrees to compensate the Insured, or a person who has a claim in respect of the death of the Insured, where death or injury of an Insured is caused by an accident that arises out of the use or operation of a vehicle by an underinsured motorist and occurs in Canada or the United States of America or on a vessel travelling between Canada and the United States of America.

SPECIAL PROVISIONS OF SECTION A - EXCESS UNDERINSURED MOTORIST PROTECTION

1) The Excess Insurer's liability shall not exceed the limit per insured person stated in the Application and/or Declaration and is reduced by and in excess of the limit per insured person of the first loss underinsured motorist protection insurance that is provided by the first loss Underinsured Motorist Protection Insurer, MPI. This policy is written subject to the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder* that requires that if an insured places optional Excess Underinsured Motorist Protection insurance coverages none of which is excess to the others, with more than one insurer, the insured is only covered up to the highest limit with any one insurer.

2) The Excess Insurer's liability to compensate an Insured under this section of the policy shall attach AFTER the applicable circumstance as described in the following subsections:

- a) when MPI – the first loss underinsured motorist insurer shall have paid to the insured the limit of the first loss underinsured motorist protection insurer's liability to that insured under the first loss policy; or
- b) when there are "deductible amounts" applicable under the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder*, after MPI has deducted all such "deductible amounts" resulting in a payment of the balance of the first loss underinsured motorist protection insurer's liability to that insured under the first loss policy; or
- c) when MPI – the first loss underinsured motorist insurer having deducted all "deductible amounts" as prescribed in the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder*, and the total of those deductibles exactly equal MPI's obligation under the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder* before the deductible(s) were applied resulting in a payment due to the Insured by MPI of zero; or
- d) when MPI – the first loss underinsured motorist insurer having deducted the "deductible amounts" as prescribed in the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder*, that equal MPI's obligation

under the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder* resulting in a payment due to the Insured by MPI of zero but additional deductible amounts remain, this section of the policy shall attach subject to the deduction of the sum of such additional deductibles.

3) Notwithstanding Statutory Condition 4, or any similar condition in a vehicle policy or owner's certificate for basic universal insurance that are issued by MPI, an Insured is only required to give the Excess Insurer notice of any accident if the underinsured motorist protection claim(s) possibly arising there from appear (s) likely to exceed the per insured person limit of the first loss underinsured motorist protection insurance policy, in which case immediate written notice of the accident must be given to the Excess Insurer.

4) Nothing in Statutory Condition 8 shall in any way affect the operation of the provision in the *MANITOBA PUBLIC INSURANCE CORPORATION ACT and the regulations thereunder* providing that where the limit of coverage specified in a certificate or a policy that is extended by an optional insurance contract is terminated, the coverage in the optional coverage excess contract is automatically terminated. In the event that this policy is thus automatically terminated, the Excess Insurer agrees to refund the excess of premium actually paid over the proportionate premium for the expired term (subject to any minimum retained premium specified) as soon as practicable, but if there is any proportionate premium unpaid the Insured agrees to pay this.

Coverage provided by this contract that extends the limit of coverage that is specified in a certificate or a policy is provided on the same terms and conditions of the coverage that is extended, except in respect of a prohibition, exclusion or different limit of coverage that is permitted by the Insurance (Vehicle) Act.

See also **General Provisions, Definitions, Exclusions and Statutory Conditions of this policy.**

SECTION B - ACCIDENT BENEFITS and UNINSURED MOTORIST COVER THIS COVERAGE PROVIDED BY LLOYD'S

The insurer agrees to pay in accordance with the *MANITOBA PUBLIC INSURANCE CORPORATION ACT (C.C.S.M. c. P.215)*, and the *Off Road Insurance Coverage Regulation 139/2000, PART II ACCIDENT INSURANCE BENEFITS*.

SEARCH AND RESCUE EXPENSE ENDORSEMENT

We will pay up to \$25,000 for the reasonable and customary expenses you are obligated to pay by reason of liability imposed upon you by law or statute in the event Search & Rescue is involved in an incident under the guidance of the Provincial Emergency Program or similar authority. No deductible applies to this coverage

**SECTION C – LOSS OR DAMAGE TO DESCRIBED AUTOMOBILE
THIS COVERAGE PROVIDED BY ELITE INSURANCE COMPANY**

PROPERTY INSURED

Automobile(s) as described on the Certificate of Automobile Insurance, anywhere Canada, the United States of America or upon a vessel plying between ports of those countries.

The Insurer agrees to indemnify the Insured against direct and accidental loss of or damage to the Described Automobile including its equipment

Subsection 1 - ALL PERILS - from all perils;

Subsection 2 - COMPREHENSIVE - from any peril other than by collision with another object or by upset; The words “another object” as used in this subsection 2 shall be deemed to include (a) a vehicle to which the automobile is attached and (b) the surface of the ground and any object therein or thereon. Loss or damage caused by missiles, falling or flying objects, fire, theft, explosion, earthquake, windstorm, hail, rising water, malicious mischief, riot or civil commotion shall be deemed loss or damage caused by perils for which insurance is provided under this subsection 2.

DEDUCTIBLE CLAUSE

Each occurrence causing loss or damage covered under any subsection of section C except loss or damage caused by fire or lightning or theft of the entire Described Automobile covered by such subsection, shall give rise to a separate claim in respect of which the Insurer’s liability shall be limited to the amount of loss or damage in excess of the amount deductible, if any, stated in the applicable subsection of section C of Item 4 of the application. This deductible clause is not applicable in the event of a total or constructive total loss.

EXTENDED COVERAGE

You are insured for loss or damage for coverages that have been purchased and for which indemnity is provided under this Policy for:

1. Trailer / Truck Deck

This Policy includes coverage for a trailer or truck deck that You may have. It must be used exclusively to transport the Described Automobile. If desired, this insured amount may be increased for an additional premium.

In the event of a total loss, if You replace the trailer/truck deck, We will pay the lesser of the amount of the cost of replacing the trailer/truck deck or the limit of Insurance shown on the Certificate of Automobile Insurance. If You do not replace the trailer/truck deck We will pay the lesser amount of the Actual Cash Value of the trailer/truck deck at the time of loss or the limit of insurance shown on the Certificate of Automobile Insurance.

In the event of a partial loss We will reimburse You for the reasonable cost of repairs actually incurred, without deduction for depreciation, with the exception of tires, up to the limit of insurance shown on the Certificate of Automobile Insurance.

All losses will be subject to a deductible of \$250.

2. Riding Gear Insurance

This Policy includes coverage for Your riding gear, as well as that of Your immediate family, that is used exclusively with the Described Automobile. Riding gear is limited to helmets, specific purpose jackets, pants and suits, gloves, riding boots and avalanche safety equipment. If desired, this insured amount may be increased for an additional premium.

In the event of a loss, We will reimburse You for the costs You incur to repair or replace Your riding gear with items of like kind and quality up to the limit of insurance shown on the Certificate of Automobile Insurance. If You choose not to repair or replace the riding gear We will pay You the lesser amount of the Actual Cash Value of Your riding gear at the time of the loss or the limit of insurance shown on the Certificate of Automobile Insurance.

All losses will be subject to a deductible of \$250.

3. Safety / Maintenance Equipment Insurance

This Policy includes \$250 for safety and maintenance equipment that is used exclusively with the Described Automobile. Safety Equipment is limited to one first aid kit, one fire extinguisher, one flashlight, six warning flares and two warning cones, or flags or reflectors. Maintenance Equipment is limited to one set of booster cables, a towing cable, four snow chains, one wheel wrench, a vehicle tarp cover and a dedicated tool kit.

In the event of a loss, We will reimburse You for the costs You incur to repair or replace the safety equipment with items of like kind and quality up to the limit of insurance shown on the Certificate of Automobile Insurance. If You choose not to repair or replace the safety equipment We will pay You the lesser amount of the Actual Cash Value of Your safety equipment at the time of the loss or the limit of insurance shown on the Certificate of Automobile Insurance.

All losses will be subject to a deductible of \$250.

4. Lock Rekeying

We will reimburse You to a maximum of \$1,000 for the cost of rekeying the locks or recoding the Described Automobile if the keys or a coded key to the Described Automobile are stolen.

No deductible applies to this coverage.

5. Travel Protection & Loss Of Use

In the event You are involved in an accident, or if Your Described Automobile is stolen while You are travelling away from Your home We will reimburse You for the following:

1. the cost of delivering Your damaged Described Automobile back home for repairs, or delivery of the recovered Described Automobile back home to a maximum of \$750
2. the costs incurred to rent a substitute automobile of similar size and type as the Described Automobile, not exceed \$50 per day nor totaling a total maximum limit of \$750
3. additional living expenses (lodging, meals, transportation and phone calls) You and Your immediate family incur because of damage to, or theft of Your Described Automobile, subject to a maximum of \$750
4. travel expenses You and Your immediate family incur to return home using the most direct route, or the cost of a rental vehicle, to a maximum of \$750

No deductible applies to this coverage.

6. Reward Coverage

We will pay up to \$500 to any one person, other than law enforcement officers or agencies, for information that leads to a conviction for arson or theft in connection with loss or damage to the Described Automobile or any other Property described in the Extended Coverage insured by this Policy.

No deductible applies to this coverage.

7. Liberalization Clause

If during the term of this Policy We change the insurance of the kind provided by this Policy to provide more coverage at no additional cost, You will automatically benefit from that change at no increase in premium.

8. Additional Agreements of Insurer

Where loss or damage arises from a peril for which a premium is specified under a subsection of this section, the Insurer further agrees:

- (a) to pay general average, salvage and fire department charges and customs duties of Canada or of the United States of America for which the Insured is legally liable;
- (b) to indemnify the Insured and any other person who personally drives a temporary substitute automobile as defined in the General Provisions of this Policy against the liability imposed by law or assumed by the Insured or such other

person under any contract or agreement for direct and accidental physical loss or damage to such automobile and arising from the care, custody and control thereof; provided always that:

- (i) such indemnity is subject to the deductible clause and exclusions of each such subsection;
- (ii) if the owner of such automobile has or places insurance against any peril insured by this section, the indemnity provided herein shall be limited to the sum by which the deductible amount, if any, of such other insurance exceeds the deductible amount stated in the applicable subsection of this Policy;
- (iii) the Additional Agreements under section A of this Policy shall, insofar as they are applicable, extend to the indemnity provided herein.

EXCLUSIONS

The Insurer shall not be liable,

(1) under any subsection of Section C for loss or damage

- (a) consisting of or caused by mechanical fracture or breakdown of any part of the Described Automobile or by rusting, corrosion, wear and tear, the weight of the load exceeding manufacturer's designated capacity of the Described Automobile, freezing, or explosion within the combustion chamber, unless the loss or damage is coincident with other loss or damage covered by such subsection or is caused by fire, theft or malicious mischief covered by such subsection;
- (b) caused by the conversion, embezzlement, theft or secretion by any person in lawful possession of the Described Automobile under a mortgage, conditional sale, lease or other similar written agreement;
- (c) caused by the voluntary parting with title or ownership, whether or not induced to do so by any fraudulent scheme, trick, device or false pretense;
- (d) caused directly or indirectly by contamination by radioactive material;
- (e) to contents of trailers;
- (f) to audio / video equipment not attached to the Described Automobile;
- (g) where the Insured drives or operates the Described Automobile
 - (i) while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the Described Automobile;
 - (ii) while in a condition for which he is convicted of an offence under section 253 of the Criminal Code (Canada) or under or in connection with circumstances for which he is convicted of an offence under section 254 of the Criminal Code (Canada);
- (h) where the Insured permits, suffers, allows or connives at the use of the Described Automobile by any person contrary to the provisions of (g);
- (i) where any operator contravenes any section of the Manitoba Off-Road Vehicles Act, the Manitoba Off-Road Vehicle Insurance Coverage Regulation, or the Manitoba Public Insurance Corporation Act;
- (j) caused by deterioration, dampness of atmosphere, extreme of temperature, contamination, vermin or insects, inherent vice or latent defect, rust or corrosion, wet or dry rot, mould, settling, expansion, contraction, shifting, bulging, buckling or cracking, unless loss or damage by fire or explosion ensues and then only for the loss or damage resulting from such ensuing fire or explosion;
- (k) resulting from the cost of making good faulty workmanship, construction or design;
- (l) to electrical devices or appliances caused by electrical current other than lightning, unless loss or damage by fire or explosion ensues, and then only for the loss or damage resulting from such ensuing fire or explosion;
- (m) resulting from the use or operation of the Described Automobile for racing or competition, including use in any speed, timed, hill climb, racing or performance riding events; or for any business or commercial purpose, including farming, landscaping or snow removal;
- (n) resulting from damage caused by the Described Automobile being used purposely and with foresight on a non-frozen body of water where the Described Automobile is or becomes fully submerged in water. This does not include using the Described Automobile on frozen bodies of water designated with trails, or fording rivers or streams where the Described Automobile does not become fully submerged in water;
- (o) to tires, tracks and/or skis consisting of or caused by mechanical fracture or breakdown of any part of the Described Automobile, or by rusting, corrosion, wear and tear, the weight of the load exceeding manufacturer's designated capacity of the Described Automobile, freezing, or explosion within the combustion chamber, BUT We will be liable if the loss or damage is coincident with other loss or damage which is covered;

(2) under subsection 2 (Comprehensive) only, for loss or damage caused by theft by any person or persons residing in the same dwelling premises as the Insured, or by any employee of the Insured engaged in the operation, maintenance or repair of the Described Automobile whether the theft occurs during the hours of such service or employment or not.

In addition to the above exclusions,

Notwithstanding any other similar clause in this Policy or any other Policy or any other Policy regulation, if any other insurance applies to loss or damage, or would have applied if this policy did not exist, this policy will be considered excess and will not pay or contribute any loss or damage until the amount of such other insurance has been used up.

PROPERTY EXCLUDED

This Policy does not insure:

- (1) motorized vehicles (except the Described Automobile) or personal property of the Insured or others;
- (2) property pertaining to a farm, business, profession or occupation;
- (3) property rented or used for compensation for hire;
- (4) property illegally acquired, kept, stored or transported;
- (5) property seized or confiscated for breach of law or by order of civil authority, but this exclusion shall not apply to property seized or confiscated for the purpose of destruction at the time of fire for the prevention of the spread of such fire; or
- (6) property while waterborne except while on a regular ferry or railway car transfer in connection with land transportation

ADDITIONAL AGREEMENT

With respect to automobiles for which All Perils coverage is provided under the Off-Road Vehicle Coverage Regulation of the Manitoba Public Insurance Corporation Act:

Loss or damage caused directly from a peril for which coverage has been purchased under Section C of this Policy **and** for which coverage is provided under the Off-Road Vehicle Coverage Regulation of the Manitoba Public Insurance Corporation Act, the Insurer agrees to indemnify the Insured for the difference between the deductible amount stated on Your Certificate of Automobile Insurance and the applicable deductible under the Off-Road Vehicle Coverage Regulation of the Manitoba Public Insurance Corporation Act for such loss or damage.

See also General Provisions, Definitions, Exclusions and Statutory Conditions of this Policy.

BASIS OF SETTLEMENT

For total losses We will pay the amount of insurance shown for Your Automobile on the Certificate of Automobile Insurance. We will pay that amount, if the reasonable expense of recovering and repairing the Described Automobile equals or exceeds the amount stated on the Certificate of Automobile Insurance.

In the event of partial losses We will reimburse You based on the reasonable cost of repairs actually incurred. We will pay losses without any deduction for depreciation, with the exception of tires and batteries. If the damage to the Described Automobile or its equipment is not repaired:

- (1) We will not be liable for more than the actual cash value of the damaged parts. That value will not exceed what it would cost to repair the damaged property with material of like kind and quality
- (2) We will not pay for unrepaired damage in addition to a payment for a subsequent total loss of the Described Automobile and its equipment
- (3) We will not be liable for any unrepaired damage that amounts to more than the amount of insurance shown for the Described Automobile at the time this insurance terminates.

ENDORSEMENTS, SECTION C
THIS COVERAGE PROVIDED BY ELITE INSURANCE COMPANY

S.E.F. No. 5 – PERMISSION TO RENT OR LEASE ENDORSEMENT (SPECIFIED LESSEE)

If shown on Your Certificate of Automobile Insurance,

This endorsement shall be effective only with respect to an automobile leased to the Lessee by the Lessor.

Whereas an Application for Off-Road Vehicle Insurance has been completed by the Lessee as applicant, permission is given to the Lessor for the automobile to be rented or leased to the Lessee.

The Insurer agrees to indemnify, in the same manner and to the same extent as if named herein as the Insured, the Lessee and every other person who with the Lessee's consent personally drives the automobile. The amount of insurance provided by the policy including this endorsement shall not exceed the limit and amounts specified on the Certificate of Automobile Insurance.

It is hereby understood and agreed that:

- (1) exclusion (c) of Section A of the policy to which this endorsement is attached is amended to read as follows:
 - (c) for loss of or damage to property carried in or upon the automobile or to any property owned or rented by, or in the care, custody or control of the Lessee or any other person who personally drives the automobile; or
- (2) with respect to paragraph 4 of the General Provisions, Definitions and Exclusions of this policy ("Newly Acquired Automobile") the words "ownership of which is acquired by the Insured" shall mean leased by the Lessee from the Lessor,
- (3) with respect to paragraph 4 of the General Provisions, Definitions and Exclusions of this policy the word "Insured" shall mean the Lessee specified herein,

Item 11A of the Application for Off-Road Vehicle Insurance is varied to provide that

- (4) (a) where the Lessee as applicant falsely describes the property to the prejudice of the Insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the Insurer in order to enable it to judge of the risk to be undertaken, the contract may be void in whole or as to any property in relation to which the misrepresentation or omission is material.
 - (b) Any fraud or willfully false statement made by the Lessee or Lessor in a statutory declaration in relation to any of the particulars required by applicable conditions, statutory or otherwise, to be specified in relation to a claim, vitiates the claim of the person making the declaration.

This endorsement is attached to and forms part of the policy and shall be effective from the local time and date of the policy or renewal, thereof, or if added to the policy during the policy period, from the local time and effective date of the endorsement specifying the addition of this coverage.

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

S.E.F. No. 19A - VALUED AUTOMOBILE(S) COVERAGE

If shown on Your Certificate of Automobile Insurance,

1. In consideration of the premium(s) shown on the Certificate of Automobile Insurance but only in respect to the subsection(s) of Section C of the Policy for which indemnity is provided, in the event of loss the Insurer agrees that the automobile(s) described on the Certificate of Automobile Insurance are valued at and insured for, subject to any applicable deductible clause, the amount shown on Your Certificate of Automobile Insurance.
2. Where the loss involving an automobile specified in Clause 1 is a partial loss only, the Insurer agrees to waive its rights under Statutory Condition 4(5) provided:
 - (a) the insurers liability is limited to the actual cost of repair or replacement with material of like kind and quality, but such cost shall not exceed the limit specified in Clause 1 with respect to the Described Automobile;
 - (b) this endorsement does not apply with respect to:
 - (i) tires and batteries, nor

(ii) betterment resulting from the repair or replacement of parts having prior unrepaired damage.

3. If more than one automobile is insured under this Policy and any such automobile is not insured on a valued basis under this endorsement, this endorsement shall have no application thereto.

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

S.E.F. No. 32 – RECREATIONAL VEHICLE ENDORSEMENT

In this endorsement:

"Public Highway" means a public highway, street, road, square or bridge, including the untravelled portion thereof where the highway is maintained for use by automobiles other than off-road vehicles.

It is understood and agreed that while the Described Automobile is being operated off a public highway the Insurer waives compliance with that portion of the Statutory Condition dealing with prohibited uses which prohibits the insured from driving or operating the Described Automobile or permitting the use of the Described Automobile when the operator is not authorized by law or qualified to drive the Described Automobile, or while he is under the age prescribed by law for the operation of an automobile on a highway.

If more than one automobile is insured under this Policy, this endorsement shall apply only to all automobile(s) described the schedule of the automobiles attached to and forming part of this Policy.

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

GENERAL PROVISIONS, DEFINITIONS AND EXCLUSIONS

1. TERRITORY

This Policy applies only while the Described Automobile is being operated, used, stored or parked within Canada, the United States of America or upon a vessel plying between ports of those countries.

2. CONSENT OF OWNER

No person shall be entitled to indemnity or payment under this Policy who is an occupant of any automobile which is being used without the consent of the owner thereof.

3. GARAGE PERSONNEL EXCLUDED

No person who is engaged in the business of selling, repairing, maintaining, storing, servicing or parking automobiles shall be entitled to indemnity or payment under this Policy for any loss, damage, injury or death sustained while engaged in the use or operation of or while working upon the Described Automobile in the course of that business or while so engaged is an occupant of the Described Automobile or a newly acquired automobile as defined in this Policy, unless the person is the owner of such automobile or his employee or partner.

4. NEWLY ACQUIRED AUTOMOBILE

An automobile, the ownership of which is acquired by the Insured and, within fourteen days following the date of its delivery to him, notified to the Insurer in respect of which the Insured has no other valid insurance, if either it replaces an automobile described in the application or the Insurer insures (in respect of the section or subsection of the Insuring Agreements under which claim is made) all automobiles owned by the Insured at such delivery date and in respect of which the Insured pays any additional premium required; provided however, that insurance hereunder shall not apply if the Insured is engaged in the business of selling automobiles;

5. TWO OR MORE AUTOMOBILES

- (a) When two or more automobiles are described hereunder, each automobile shall be held to be separate automobiles with respect to the limit(s) of coverage, including deductible provisions, under Insuring Agreement C.

6. WAR RISKS EXCLUDED

The Insurer shall not be liable under section C of this Policy for any loss, damage, injury or death caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operation of armed forces while engaged in hostilities, whether war be declared or not.

7. EXCLUDED USES

Unless coverage is expressly given by an endorsement of this Policy, the Insurer shall not be liable under Section C of this Policy while:

- (a) the Described Automobile is rented or leased to another person, but does not include the use by an employee of the employer's in the business of the employee's employer for which the employee is paid;
- (b) the Described Automobile is used to carry explosives, or to carry radioactive material for research, education, development or industrial purposes, or for purposes incidental to those purposes. "Radioactive material" means
 - (i) spent nuclear fuel rods that have been exposed to radiation in a nuclear reactor,
 - (ii) radioactive material waste,
 - (iii) unused enriched nuclear fuel rods, or
 - (iv) any other radioactive material of such quantity and quantity as to be harmful to persons or property if its container were destroyed or damaged;
- (c) the Described Automobile is used as a taxicab, public omnibus, livery, jitney or sightseeing conveyance or for carrying passengers for compensation or hire provided that the following uses shall not be deemed to be the carrying of passengers for compensation or hire:
 - (i) the use by the Insured of his Described Automobile for the carriage of another person in return for the Insured's carriage in the automobile of the other person;
 - (ii) the occasional and infrequent use of the Insured of the Described Automobile for the carriage of another person who shares the cost of the trip;
 - (iii) the use by the Insured of his Described Automobile for the carriage of a temporary or permanent domestic servant of the Insured or the Insured's spouse or adult interdependent partner;
 - (iv) the occasional and infrequent use by a person of the Described Automobile for the transportation of children to or from activities conducted as part of an educational program;
 - (v) the use by the Insured of his Described Automobile for the carriage of a client or customer or prospective client or customer.

8. LIMITATION OF ACTIONS

Every action or proceeding against an Insurer for the recovery of insurance money payable under this contract is absolutely barred unless commenced within the time set out in the *Insurance Act*.

9. YOUR RESPONSIBILITIES

The information you have provided to us, including but not limited to the statements contained in any application for insurance, has formed the basis on which your policy has been issued and rated by us. If any information changes at any time in the future with respect to any statement or representation you have made, it is considered material and must be reported to us immediately. Failure to do so may result in your claim being denied or your policy becoming void from the date of such material change.

Without restricting the generality of the foregoing, changes considered material include, but are not limited to, the use, value, modifications to, horsepower rating or operators of the Described Automobile.

STATUTORY CONDITIONS

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

Material change in risk

1(1) The Insured named in this contract shall promptly notify the Insurer or its local agent in writing of any change in the risk material to the contract and within his knowledge.

Definition

1(2) Without restricting the generality of the foregoing, the words "**change in the risk material to the contract**" include:

(a) any change in the insurable interest of the Insured named in this contract in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy Act* (Canada);

and in respect of insurance against loss of or damage to the automobile,

(b) any mortgage, lien or encumbrance affecting the automobile after the application for this contract;

(c) any other insurance of the same interest, whether valid or not, covering loss or damage Insured by this contract or any portion thereof.

Prohibited use by Insured

2(1) The Insured shall not drive or operate the automobile

(a) unless he is for the time being either authorized by law or qualified to drive or operate the automobile; or

(b) while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or

(c) while he is under the age of 16 years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or

(d) for any illicit or prohibited trade or transportation; or

(e) in any race or speed test.

Prohibited use by others

2(2) The Insured shall not permit, suffer, allow or connive at the use of the automobile

(a) by any person

(i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile, or

(ii) while that person is under the age of 16 years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued; or

(b) by any person who is a member of the household of the Insured while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or

(c) for any illicit or prohibited trade or transportation; or

(d) in any race or speed test.

Requirements where loss or damage to persons or property

3(1) The Insured shall,

- (a) promptly give to the Insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property and of any claim made on account of the accident;
- (b) verify by statutory declaration, if required by the Insurer, that the claim arose out of the use or operation of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured under this contract; and
- (c) forward immediately to the Insurer every letter, document, advice or writ received by him from or on behalf of the claimant.

Prohibited acts of Insured

- 3(2) The Insured shall not
- (a) voluntarily assume any liability or settle any claim except at his own cost; or
 - (b) interfere in any negotiations for settlement or in any legal proceeding.

Obligation of Insured

3(3) The Insured shall, whenever requested by the Insurer, aid in securing information and evidence and the attendance of any witness and shall co-operate with the Insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

Requirements where loss or damage to automobile

- 4(1) Where loss of or damage to the automobile occurs, the Insured shall, if the loss or damage is covered by this contract,
- (a) promptly give notice thereon in writing to the Insurer with the fullest information obtainable at the time;
 - (b) at the expense of the Insurer, and as far as reasonably possible, protect the automobile from further loss or damage; and
 - (c) deliver to the Insurer within 90 days after the date of the loss or damage a statutory declaration stating, to the best of his knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the Insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the automobile and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the Insured.

Further loss

4(2) Any further loss or damage accruing to the automobile directly or indirectly from a failure to protect it as required under subcondition (1) of this condition is not recoverable under this contract.

Repair

- 4(3) No repairs, other than those that are immediately necessary for the protection of the automobile from further loss or damage, shall be undertaken and no physical evidence of the loss or damage shall be removed,
- (a) without the written consent of the Insurer; or
 - (b) until the Insurer has had a reasonable time to make the examination for which provision is made in statutory condition 5.

Examination of Insured

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

Insurer liable for cash value of automobile

4(5) The Insurer shall not be liable for more than the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to that actual cash value with proper deduction for depreciation, however caused, and shall not exceed the amount that it would cost to repair or replace the automobile, or any part thereof, with material of like kind and quality, but, if any part of the automobile is obsolete and out of stock, the liability of the Insurer in respect thereof shall be limited to the value of that part at the time of loss or damage, not exceeding the maker's latest list price.

Repair or replacement

4(6) Except where an appraisal has been made, the Insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of like kind and quality if, within seven days after the receipt of the proof of loss, it gives written notice of its intention to do so.

No abandonment; salvage

4(7) There shall be no abandonment of the automobile to the Insurer without the Insurer's consent. If the Insurer exercises the option to replace the automobile or pays the actual cash value of the automobile, the salvage, if any, shall vest in the Insurer.

In case of disagreement

4(8) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, those questions shall be determined by appraisal as provided under *The Insurance Act* before there can be recovery under this contract, whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

Inspection of automobile

5 The Insured shall permit the Insurer at all reasonable times to inspect the automobile and its equipment.

Time and manner of payment of insurance money

6(1) The Insurer shall pay the insurance money for which it is liable under this contract within 60 days after the proof of loss has been received by it or, where an appraisal is made under subcondition (8) of statutory condition 4, within 15 days after the award is rendered by the appraisers.

When action may be brought

6(2) The Insured shall not bring an action to recover the amount of a claim under this contract unless the requirements of statutory conditions 3 and 4 are complied with or until the amount of the loss has been ascertained as therein provided or by a judgment against the Insured after trial of the issue or by agreement between the parties with the written consent of the Insurer.

Limitation of actions

6(3) Every action or proceeding under the contract against the Insurer in respect of a claim for indemnification for liability of the Insured for loss or damage to property of another person or for personal injury to or death of another person shall be commenced within two years after the liability of the Insured is established by a court of competent jurisdiction and not afterwards. Every other action or proceeding against the Insurer under the contract, in respect of loss or damage to the automobile shall be commenced within two years from the time the loss or damage was sustained and not afterwards.

Who may give notice and proofs of claim

7 Notice of claim may be given and proofs of claim may be made by the agent of the Insured named in this contract in case of absence or inability of the Insured to give the notice or make the proof, such absence or inability being satisfactorily

accounted for or, in the like case or if the Insured refuses to do so, by a person to whom any part of the insurance money is payable.

Termination

8(1) This contract may be terminated,

- (a) by the Insurer giving to the Insured 15 days' notice of termination by registered mail or five days' written notice of termination personally delivered;
- (b) by the Insured at any time on request.

Refund

8(2) Where this contract is terminated by the Insurer,

- (a) the Insurer shall refund the excess of premium actually paid by the Insured over the pro rata 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
- (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to the amount, in which case the refund shall be made as soon as practicable.

Excess premium

8(3) Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.

Mode of payment

8(4) The refund may be made by money, postal or express company money order or cheque payable at par.

Time

8(5) The 15 days mentioned in clause (a) of subcondition (1) 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.

Notice

9 Any written notice to the Insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the Insurer in the province. Written notice may be given to the Insured named in this contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the Insurer. In this condition, the expression "**registered**" means registered in or outside Canada.