

**FAMILY PROTECTION ENDORSEMENT**

**DEFINITIONS**

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

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

**PROVIDED THAT**

- (A) where an eligible claimant is entitled to recover damages from an inadequately insured motorist and the owner or operator of any other automobile, for the purposes of
  - (i) (a) above, and
  - (ii) determining the limit of coverage under section 4 of this endorsement, the limit of motor vehicle liability insurance shall be deemed to be the aggregate of all limits of motor vehicle liability insurance and all bonds, cash deposits, or other financial guarantees required by law in lieu of such insurance, for all of the automobiles; and
- (B) where an eligible claimant is entitled to recover damages from the identified owner or identified driver of an uninsured automobile as defined in the Policy for the purpose of

- (i) (a) and (b) above; and
- (ii) determining the limit of coverage under section 4 of this endorsement;  
Other uninsured automobile coverage available to the eligible shall be taken into account as if it were motor vehicle liability insurance with the same limits as the uninsured automobile coverage.

1.6 “insured person” means

- (a) the named insured and his or her spouse and any dependent relative of either, while
  - (i) an occupant of the described automobile, a newly acquired automobile or a substitute automobile as defined in the Policy.
  - (ii) an occupant of any other automobile except where the person leases the other automobile for a period in excess of 30 days or own the other automobile, unless family protection coverage is in force in respect of the other automobile; or
  - (iii) not an occupant of an automobile who is struck by an automobile; and
- (b) if the named insured is a corporation, an unincorporated association, partnership, sole proprietorship or other entity, any officer, employee or partner of the named insured for whose regular use the described automobile is provided and his or her spouse and any dependents relative of either, while
  - (i) an occupant of the described automobile, a newly automobile or a temporary substitute as defined in the Policy
  - (ii) an occupant of an automobile other than
    - (a) the automobile referred to in (i) above;
    - (b) an automobile leased by the named insured for a period in excess of 30 days; or
    - (c) an automobile owned by the named insured**PROVIDED** family protection coverage is in force in respect of the other automobile, or
    - (iii) not an occupant of an automobile, who is struck by an automobile;

**EXCEPT THAT**

where the Policy has been endorsed to grant permission to rent or lease the described automobile for a period in excess of 30 days, any reference to the named insured shall be construed as a reference to the lessee specified in that endorsement.

1.7 “limit of family protection coverage means the amount in the of Certificate of Insurance with respect to this endorsement, but if no amount is set out in the Certificate, the limit set out in Part A (Third Party Liability) of the Certificate with respect to the automobile to which this endorsement applies is the limit of the family protection coverage.

1.8 “limit of motor vehicle liability insurance” means the amount stated in the Certificate of Insurance as the limit of liability of the insurer the with respect to liability claims, regardless of whether that limit is reduced by the payment of claims or otherwise;

**PROVIDED THAT** in the event that an insurer’s liability under a policy is reduced by operation of law to the statutory minimum limits in a jurisdiction because of a breach of the Policy, the statutory minimum limits are the limits of motor vehicle liability insurance in the Policy.

1.9 “Policy” means the Policy to which this endorsement is attached.

1.10 “Spouse” means either a man or a woman who

- (a) are married to each other;
- (b) have together in good faith entered marriage; or
- (c) are not married to each other and have cohabited continuously for a period of not less than 3 years, or have cohabited in a relationship of some permanence if they are the natural or adoptive parents of a child.

1.11 “uninsured automobile” means an automobile with respect to which neither the owner nor driver thereof has applicable and collectible bodily injury liability and property damage liability insurance for

its ownership, use or operation but it does not include an automobile owned by or registered in the name of the insured or his or her spouse.

2. The definitions in section 1 apply as of the time of the happening for which indemnity is provided under this endorsement.

**INSURING AGREEMENT**

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

**LIMIT OF COVERAGE UNDER THIS ENDORSEMENT**

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