

CAUSE NO. 198100313719

DEER PARK PAINT AND BODY	§	JUSTICE OF THE PEACE
	§	
Plaintiff,	§	
	§	
v	§	HARRIS COUNTY, TEXAS
	§	
STATE FARM AUTOMOBILE	§	
INSURANCE COMPANY	§	
Defendant.	§	PRECINCT 8, PLACE 1

**DEFENDANT STATE FARM AUTOMOBILE INSURANCE COMPANY'S
MOTION TO DISMISS PURSUANT TO RULE 91a and MOTION FOR SUMMARY
DISPOSITION PURSUANT TO RULE 503.2 OF THE TEXAS RULES OF CIVIL
PROCEDURE**

TO THE HONORABLE JUDGE OF THIS COURT:

Defendant, State Farm Automobile Insurance Company ("State Farm"), files its Motion to Dismiss and Motion for Summary Disposition of Deer Park Paint and Auto Body's ("Plaintiff") baseless cause of action pursuant to Rule 91a and Rule 503.2 of the Texas Rules of Civil Procedure. In short, Plaintiff lacks the legal standing to assert its plead cause of action and cannot prove all elements of its cause of action against State Farm. Therefore, Plaintiff's claim lacks any basis in law or fact and must be dismissed or summary disposition granted in favor of State Farm. In support of its Motion, State Farm respectfully would show as follows:

I. FACTUAL BACKGROUND

1. State Farm is an insurance company that provides automobile insurance policies to Texas residents. Upon receipt of a vehicle damage claim, pursuant to its policy with its insureds, State Farm has the right to inspect the vehicle and prepare a repair estimate for labor and replacement parts.¹ Pursuant to the contract with the insured, State Farm agrees to

¹ Exhibit B-2, Page 31, Limits and Loss Settlement 1.a.(1)(c)

pay the prevailing competitive labor rate for repairs.² Each estimate identifies the applicable labor rates and finds quotes of each part State Farm agrees to pay.³ The vehicle owner can then take the repair estimate and the vehicle to an auto body shop for repairs.⁴

2. Plaintiff is an independently owned auto body shop in Houston. Plaintiff performed auto body work on vehicles insured by State Farm or vehicles owned by individuals who made claims under State Farm policies, and State Farm paid Plaintiff pursuant to its policies with its insureds, and according to the labor rates disclosed in the repair estimates, as provided for in the policy. After completing the repairs, Plaintiff claims State Farm failed to pay the full amount for repairs to multiple vehicles because the labor rates and materials in the repair estimates, which were prepared pursuant to the relevant policies with its insureds, are lower than the rates Plaintiff charges. Plaintiff sued State Farm for tortious interference.

3. This suit is over five different claims regarding property damage in either a first party or third-party situation.⁵ Plaintiff alleges tortious interference in its original petition.⁶ In Plaintiff's discovery responses, Plaintiff alleges the legal theory for its claim is "Texas Department of Insurance, Consumer Bill of Rights, The 1963 Consent Decree, Commissioner's Bulletin # B-0031-10, DEG Inquiry 12043, the Assignment of Proceeds, the manufacturers recommendations of how a vehicle is to be repaired after an accident, estimates showing the rates paid by State Farm and other insurance companies and common sense" under the Request for Disclosure (c).⁷

4. Plaintiff has also produced assignments of proceeds from:

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Plaintiff's Petition at 1.

⁶ *Id.*

⁷ Exhibit C.

- [REDACTED] for claim number [REDACTED],
- [REDACTED] for claim number [REDACTED],
- [REDACTED] Cernosek for claim number [REDACTED],
- [REDACTED] for claim number [REDACTED], and
- [REDACTED] for claim number [REDACTED].⁸

As set forth more fully below, Plaintiff's claim against State Farm has no basis in law or fact. As such, this Court must dismiss or grant summary disposition as to Plaintiff's claim against State Farm.

II. STANDARD OF REVIEW

5. Pursuant to Rule 91a of the Texas Rules of Civil Procedure, "a party may move to dismiss a cause of action on the grounds that it has no basis in law or fact. A cause of action has no basis in law if the allegations, taken as true, together with inferences reasonably drawn from them, do not entitle the claimant to the relief sought. A cause of action has no basis in fact if no reasonable person could believe the facts pleaded."⁹

6. Texas Rules of Civil Procedure 503.2 states that a sworn Motion for summary disposition of all or part of a claim can be ruled on after 14 days of filing.¹⁰ A court must rule on a motion to dismiss "within 45 days after the motion is filed."¹¹ Under Rule 91a, the Court "must award the prevailing party on the motion all costs and reasonable and necessary attorney fees incurred with respect to the challenged cause of action in the trial court."¹² Rule 91a "is in addition to, and does not supersede or affect, other procedures that

⁸ Exhibit A

⁹ Tex. R. Civ. P. 91a.1

¹⁰ Tex. R. Civ. P. 503.2

¹¹ Tex. R. Civ. P. 91a.3

¹² Tex. R. Civ. P. 91a.7

authorize dismissal."¹³

7. "While not identical, Rule 91a is analogous to Rule 12(b)(6) [of the Federal Rules of Civil Procedure]; therefore, [courts] find case law interpreting Rule 12(b)(6) instructive."¹⁴ Rule 12(b)(6) allows dismissal if a plaintiff fails to state a claim upon which relief can be granted. For a complaint to survive a Rule 12(b)(6) motion to dismiss, it must contain enough facts to state a claim to relief that is plausible on its face.¹⁵ Facial plausibility requires facts that allow the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.¹⁶ Rule 12(b)(6) dismissal is appropriate if the court determines beyond doubt that the plaintiff can prove no set of facts to support a claim that would entitle him to relief.¹⁷

Evidence Presented

8. State Farm presents the following evidence for the Court's determination in support of its motion:

Exhibit A: Assignments of Proceeds from Vehicle Owners to Plaintiff

Exhibit B: Affidavit of Gasper Castillo

Exhibit B-1: State Farm letters to vehicle owners

Exhibit B-2: State Farm Policy Form 9843A

Exhibit C: Plaintiff's Discovery Responses

III. ARGUMENT AND AUTHORITIES

¹³ Tex. R. Civ. P. 91a9.

¹⁴ *GoDaddy.com, LLC v. Touts*, 429 S.W.3d 752, 754 (Tex. App.-Beaumont 2014), review denied (Nov. 21, 2014).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* (internal citations and quotations omitted).

9. Under Texas Law, the elements of tortious interference are: (1) an existing contract subject to interference, (2) a willful and intentional act of interference with the contract, (3) that proximately caused the plaintiff's injury, and (4) caused actual damages or loss.¹⁸

10. Plaintiff's theory of law fails with these facts for a multitude of reasons.

Lack of standing- No Interference

11. Texas Courts have consistently followed common-law rules to determine standing when a suit is brought under a claim with no statutory guidance on standing.¹⁹ Courts look to determine if the plaintiff is "personally aggrieved" for standing.²⁰ The "personally aggrieved" status is determined with three prongs. Plaintiff must show there is (a) a real controversy between the parties, which (b) will be actually determined by the judicial declaration sought.²¹ Finally, the plaintiff also must allege a recognizable injury.²² Plaintiff has alleged the first two prongs for standing but fails when the Court reviews the third prong. Plaintiff cannot plead a recognizable injury in this case.

12. State Farm's actions have no bearing on Plaintiff's contract with the vehicle owners. In the vast majority of cases under Texas law for a tortious interference case, the contract that was interfered with was void or not completed due to the defendant's interference.²³ That is not the fact here. The vehicle owners brought their vehicle to Plaintiff, and the vehicle owners chose to have Plaintiff complete the relevant repairs despite the fact that Plaintiff's charges exceeded the amount of damages State Farm would pay under the relevant policy of insurance. After the repairs were

¹⁸ See *ACS Investors, Inc. v. McLaughlin*, 943 S.W.2d 426, 430 (Tex. 1997)

¹⁹ *DaimlerChrysler Corp. v. Inman*, 252 S.W.3d 299 (Tex. 2008)

²⁰ *M.D. Anderson Cancer Ctr. v. Novak*, 52 S.W.3d 704, 705-06 (Tex.2001)

²¹ *Nootsie, Ltd. v. Williamson County Appraisal Dist.*, 925 S.W.2d 659, 661 (Tex.1996)

²² *Id.*

²³ See *ACS Investors, Inc. v. McLaughlin*, 943 S.W.2d 426, 431 (Tex.1997); *Friendswood Dev. Co. v. McDade + Co.*, 926 S.W.2d 280, 283 (Tex.1996); *Calvillo v. Gonzalez*, 922 S.W.2d 928, 929 (Tex.1996)

completed, Plaintiff released the vehicle back to the owner.²⁴ Plaintiff has maintained all of its rights pursuant to the contract with the vehicle owner.²⁵ Plaintiff has chosen to not pursue its rights under the contract for repair with the vehicle owners.²⁶ Instead of pursuing its own contractual remedies with the vehicle owners, Plaintiff is alleging that State Farm has tortuously interfered with its contracts with the vehicle owners.

Legal defense

13. Second, justification is established as a matter of law when the acts Plaintiff complains of as tortious interference are merely the defendant's exercise of its own contractual rights.²⁷

14. State Farm and the insured enter into a contract known as the insurance policy.²⁸

15. State Farm and its insureds rights and responsibilities are expressly found in the language of the contract, the insurance policy.²⁹

16. Under the *ACS Investor* standard, a party exercising its own contractual rights, cannot tortuously interfere into another contract.³⁰ "Ordinarily, merely inducing a contract obligor to do what it has a right to do is not actionable interference."³¹

17. The State Farm contract at issue in each of the claims has express language regarding State Farm's rights and responsibilities when handling property damage claims.³²

18. State Farm and the insured's contracted and agreed that State Farm has the right to choose to settle with the insured or the owner of a covered vehicle.³³

19. The contract continues that State Farm has the right to pay the cost to repair a covered

²⁴ Exhibit A

²⁵ *Id.*

²⁶ *Id.*

²⁷ *ACS Investors, Inc. v. McLaughlin*, 943 S.W.2d 426, 431 (Tex.1997)

²⁸ Exhibit B

²⁹ Exhibit B-2

³⁰ *ACS Investors* at 430.

³¹ *Id.*

³² Exhibit B-2

³³ *Id* at page 31 ¶ 1.a.(1)

vehicle minus any applicable deductible.³⁴

20. Additionally the contract states,

“We [State Farm] have the right to choose one of the following to determine the cost to repair the *covered vehicle*; (a) the cost agreed to by both the owner of the *covered vehicle* and us [State Farm]; (b) a bid or repair estimate approved by us; or (c) a repair estimate that is written based upon or adjusted to: (i) the prevailing competitive price; (ii) the paintless dent repair price that is competitive in the market. (iii) a combination of (i) and (ii) above.

The prevailing competitive price means prices charged by a majority of the repair market in the area where the covered vehicle is to be repaired as determined by a survey made by us. If asked, we will identify some facilities that will perform the repairs at the prevailing competitive price.

The estimate will include parts sufficient to restore the covered vehicle to its pre-loss condition.”³⁵

21. In each claim at issue in this suit, and pursuant to the relevant insurance policies with the insureds at issue, State Farm had an estimate completed and written based on the prevailing competitive price.³⁶

22. The evidence shows that State Farm was acting pursuant to its legal obligations and contractual rights.³⁷

23. State Farm notified the vehicle owner in each case that it will only pay what it deems

³⁴ *Id.*

³⁵ *Id.*

³⁶ Exhibit B.

³⁷ *ACS Investors* at 430.

to be reasonable and necessary.³⁸ This is required and allowed pursuant to Texas Administrative Code Title 28, Part 1, Chapter 5, Subchapter A, Division 6, Rule 5.501.

No injury

24. To prevail in its cause of action, Plaintiff will have to prove that State Farm's actions injured Plaintiff's rights in the contract with the vehicle owners. Plaintiff cannot do so. Plaintiff's theory of law according to its discovery responses tends to show that it will argue that State Farm has not complied with its obligations under the insurance contract and applicable insurance code regulations.³⁹ This is irrelevant to a tortious interference claim. A tortious interference claim is not a cause of action to determine if a party failed to comply with a separate contract. A tortious interference claim is a cause of action that determines whether a contract at issue (here the contract between Plaintiff and vehicle owner) was interfered with.⁴⁰

25. Plaintiff has submitted conclusive evidence that it maintained all of his rights in its contract with the vehicle owners.⁴¹ Plaintiff chose to secure an assignment of proceeds from the vehicle owners.⁴² Plaintiff could have sought payment from the vehicle owners after it performed under the contract. Plaintiff chose not to.

26. Furthermore, the assignment of proceeds states that the consideration for the vehicle owners' assigning their respective rights is the completion of the repairs to the vehicle.⁴³ The assignment then goes on to acknowledge a deficit balance.⁴⁴ If the consideration for providing the assignment was the repairs to the vehicle, there can be no balance due and

³⁸ Exhibit B-1

³⁹ Exhibit C, Request for Disclosure (c)

⁴⁰ *Prudential Ins. Co. of Am. v. Fin. Review Servs., Inc.*, 29 S.W.3d 74, 78 (Tex. 2000)

⁴¹ Exhibit A

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

owing.

27. Also, it is legally impossible to assign a debt one owes to a creditor to that same creditor. The debt is consumed by the creditor and ceases to exist.

Not an intended beneficiary and Texas is not a direct-action state

28. Moreover, courts have repeatedly held that Texas is not a direct-action state. "In Texas, the general rule ... is that an injured party cannot sue the tortfeasor's insurer directly until the tortfeasor's liability has been finally determined by agreement or judgment."⁴⁵

29. In *Allstate Ins. Co. v. Watson*, the Texas Supreme Court held that the plaintiff lacked standing to sue another driver's automobile insurer directly for alleged Texas Insurance Code violations.⁴⁶

30. In a case with very similar issues as the one presently before this Honorable Court, *Farias v. Allstate Ins. Co.*, the plaintiff sued the insurance company seeking medical payments coverage under a third party's insurance policy after the plaintiff's son suffered a dog bite at the insured's home. The plaintiff argued that he was a third-party beneficiary to the insured's insurance policy. The court rejected the plaintiff's argument stating, "A party is presumed to contract only for its own benefit; thus, any intent to benefit a third party must be clearly apparent."⁴⁷ The court then noted that insurance policies do not specifically identify specific plaintiffs nor do they indicate that specific plaintiffs are contemplated when the insured and the insurer entered into their insurance

⁴⁵ *In re Essex Ins. Co.*, 13-1006, 2014 WL 6612590, at *1 (Tex. Nov. 21, 2014) (quoting *Angus Chem. Co. v. IMC Fertilizer, Inc.*, 939 S.W.2d 138, 138 (Tex.1997) (per curiam) (citing *Great Am. Ins. Co. v. Murray*, 437 S.W.2d 264,265 (Tex.1969)); see also, *Aviles v. Aguirre*, 292 S.W.3d 648, 649 (Tex.2009) (per curiam) ("The plaintiffs sued only Dr. Aviles; they could not sue his insurer under the Texas rules barring direct actions.") (citing *Angus Chem.*, 939 S.W.2d at 138); *State Farm Cnty. Mut. Ins. Co. of Tex. v. Ollis*, 768 S.W.2d 722, 723 (Tex.1989) (per curiam) ("However, [the plaintiff] cannot enforce the policy directly against the insurer until it has been established, by judgment or agreement, that the insured has a legal obligation to pay damages to the injured party.").

⁴⁶ *Allstate Ins. Co. v. Watson*, 876 S.W.2d 145 (Tex. 1994),

⁴⁷ *Farias v. Allstate Ins. Co.*, No. 13-10-00071-CV, 2011 WL 2175220, at *3 (Tex. App. June 2, 2011)

contract.⁴⁸ Finally, the court noted the well settled rule that "an injured party cannot sue the tortfeasor's insurer directly until the tortfeasor's liability has been finally determined by agreement or judgment."⁴⁹ Therefore, the court held that the plaintiff did not have standing to bring a lawsuit against the insurer.⁵⁰

31. Two of the claims Plaintiff sues under are claims made by third parties to the insurance contract: the claims were made by [REDACTED] and [REDACTED].⁵¹

32. [REDACTED] was in a collision [REDACTED]. [REDACTED] made a claim on [REDACTED]'s insurance policy.⁵² Texas Courts have consistently held that it is not a direct-action state.⁵³ If [REDACTED] had any issues with not receiving benefits under the policy, [REDACTED] would be required to sue [REDACTED] in court.

33. [REDACTED] was in an accident with [REDACTED]. J [REDACTED] made a claim on [REDACTED]'s policy.⁵⁴ [REDACTED] did not assign any rights to Plaintiff. If [REDACTED] had any issues with not receiving benefits under the policy, [REDACTED] would be required to sue [REDACTED] in court.

34. [REDACTED] and [REDACTED] have no right to sue State Farm under Texas Law.⁵⁵ These two individuals would be suing the insurer of an alleged tortfeasor.⁵⁶ Texas Law has consistently held that [REDACTED] and [REDACTED] can bring no action against State Farm.⁵⁷ Plaintiff is attempting to circumvent long-standing Texas law through this tortious interference claim.

⁴⁸ *Id.*

⁴⁹ *Id.* at 4. [internal citations omitted]

⁵⁰ *Id.*

⁵¹ Exhibit B, ¶ 2 and 5.

⁵² *Id.*

⁵³ *In re Essex Ins. Co.* at 1.

⁵⁴ Exhibit B, ¶ 5

⁵⁵ *Texas Farmers Ins Co. v. Gerdes*, 880 S.W. 2d 215. (Tex. App – Fort Worth, 1994, pet denied).

⁵⁶ *Allstate Ins. Co. v. Watson* 876 S.W.2d 145. (Tex. 1994).

⁵⁷ *Frymire Engineering C., Inc. ex rel. Liberty Mut. Ins. Co. v. Jomar Intern., Ltd.* 259 S.W. 3d 140 (Tex. 2008).

Plaintiff cannot step into insured's shoes via assignment

35. If Plaintiff's herein intend to claim that the owners of the vehicle it worked on have assigned their rights for standing, this position fails as a matter of law.⁵⁸ Texas Courts have consistently held that an insured cannot assign an insurance claim if the policy contains a non-assignment clause.⁵⁹

36. In *Texas Farmers*, the policy language read as follows "Your rights and duties under this policy may not be assigned without our written consent."⁶⁰ The State Farm policy for each claim in this case had language as follows "No assignment of benefits, except as provided for in **Our Payment Options** of Personal Injury Protection Coverage or Medical Payments Coverage, or other transfer of rights."⁶¹

37. Here, it is undisputed that Plaintiff was not a party to any contract with State Farm. As shown above, Texas Law has consistently held no-assignment clauses to be enforceable. In every policy at issue, a no-assignment without approval clause existed. No such approval exists. Ultimately, Plaintiff seeks proceeds from an insurance policy held by non-parties to this suit and issued by State Farm without any support in the law.

38. However, as previously noted above, Texas is not a direct-action state and it is well-settled that alleged tort victims or their assignees cannot sue an insurer directly because they have no legally cognizable interest in the insurance contract until a judgment has been obtained against the insured.⁶² It is undisputed that Plaintiff has not obtained any judgment or other finding of liability against non-party contract holders. As such, Plaintiff lacks standing to assert cause of action seeking insurance proceeds against State Farm.

⁵⁸ Exhibit A

⁵⁹ Exhibit C, page 45. See Also *Texas Farmers Inc. Co.* at 218 "Non-Assignment Clauses have consistently been enforced by Texas Courts."

⁶⁰ *Id.* At 218.

⁶¹ See Exhibit B-2, page 45.

⁶² *Texas Farmers Ins Co.* at 213.

IV. PRAYER

33. Based upon the foregoing, State Farm respectfully requests that this Court grant its Motion to Dismiss and sign an Order dismissing the challenged cause of action. In the alternative, State Farm prays the Court grant its Motion for Summary Disposition and enter Judgment in favor of State Farm. State Farm further prays that it be awarded such further relief, both special and general, at law and in equity, to which Defendant may be justly entitled.

Respectfully submitted,

/s/ Michael P. Hupf

Michael P. Hupf

State Bar No. 24102799

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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2019, a true and correct copy of the above and foregoing document has been served upon all counsel of record, in accordance with the Texas Rules of Civil Procedure.

/s/ Michael P. Hupf

Michael P. Hupf

CAUSE NO. 198100313719

DEER PARK PAINT AND BODY

Plaintiff,

v

STATE FARM AUTOMOBILE
INSURANCE COMPANY

Defendant.

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JUSTICE OF THE PEACE

HARRIS COUNTY, TEXAS

PRECINCT 8, PLACE 1

AFFIDAVIT OF GASPAR CASTILLO

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned authority, personally appeared Gaspar Castillo, known to me to be a credible person, who upon his oath did state as follows:

1. "My name is Gaspar Castillo, and I am a resident of Round Rock, Texas. I am over the age of twenty-one and am not otherwise disqualified from making this Affidavit. I am a Claims Team Manager for State Farm Automobile Insurance Company, and I work in Austin, Texas. I have been working as a Claims Team Manager in the liability insurance industry handling first-party and third-party liability claims for approximately 21 years, and I am very familiar with the handling of third-party liability claims. I am currently the Claims Team Manager handling claim numbers [REDACTED] MI [REDACTED] which are all property damage claims. Based on my personal knowledge, my position with State Farm, and based on my review and handling of the above-mentioned claims, I have personal knowledge of each and every fact contained herein, and they are true and correct.

2. "[REDACTED] filed a claim on [REDACTED]'s State Farm policy. Claim number [REDACTED] was assigned to that claim. State Farm sent correspondence to [REDACTED]. A true and correct copy of that correspondence is attached as Exhibit B-1."

3. "[REDACTED] filed a claim on his State Farm policy. Claim number [REDACTED] was assigned to that claim. State Farm sent correspondence to [REDACTED]. A true and correct copy of that correspondence is attached as Exhibit B-1."

4. "[REDACTED] filed a claim on her State Farm policy. Claim number [REDACTED] was assigned to that claim. State Farm sent correspondence to [REDACTED]. A true and correct copy of that correspondence is attached as Exhibit B-1."

5. "[REDACTED] filed a claim on [REDACTED]'s State Farm policy. Claim number [REDACTED] was assigned to that claim. State Farm sent correspondence to [REDACTED]. A true and correct copy of that correspondence is attached as Exhibit B-1."

6. [REDACTED] filed a claim on his State Farm policy. Claim number [REDACTED] was assigned to that claim. State Farm sent correspondence to [REDACTED]. A true and correct copy of that correspondence is attached as Exhibit B-1."

7. "For each claim number [REDACTED], [REDACTED], State Farm Texas Form Policy 9843A was the contractual language agreed to between the relevant parties, State Farm and the insureds. A true and correct copy is attached as Exhibit B-2"

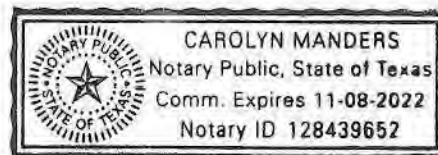
8. "Pursuant to the policy, State Farm had an estimate completed and paid the full estimate for each claim identified above."

8. "Affiant says nothing further."

Gaspar Castillo
Affiant

SUBSCRIBED AND SWORN TO before me this 2nd day of January, 2020, to
certify which witness my hand and seal of office.

Carolyn Manders
Notary Public in and for the State of Texas





State Farm®
Personal Car Policy
Booklet

Texas
Policy Form 9843A

IMPORTANT NOTICE

To obtain information or make a complaint:

You may contact your agent at the telephone number displayed on your Texas Liability Insurance Card.

You may call State Farm's toll-free telephone number for information or to make a complaint at:

**800-STATE-FARM
(800-782-8332)**

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P.O. Box 149104

Austin, TX 78714-9104

Fax: (512) 490-1007

Web: www.tdi.texas.gov

E-mail: ConsumerProtection@tdi.texas.gov

To obtain price and policy form comparisons and other information relating to residential property insurance and personal automobile insurance, you may visit the Texas Department of Insurance/Office of Public Insurance Counsel website:

www.helpinsure.com

PREMIUM OR CLAIM DISPUTES: Should you have a dispute concerning your premium or about a claim you should contact the agent first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener información o para presentar una queja:

Usted puede comunicarse con su agente al número de teléfono que aparece en su Tarjeta de Seguro de Responsabilidad de Texas.

Usted puede llamar al número de teléfono gratuito de State Farm para obtener información o para presentar una queja al:

**800-STATE-FARM
(800-782-8332)**

Usted puede comunicarse con el Departamento de Seguros de Texas para obtener información sobre compañías, coberturas, derechos o quejas al:

1-800-252-3439

Usted puede escribir al Departamento de Seguros de Texas:

P.O. Box 149104

Austin, TX 78714-9104

Fax: (512) 490-1007

Web: www.tdi.texas.gov

E-mail: ConsumerProtection@tdi.texas.gov

Para obtener formas para la comparación de precios y pólizas y para obtener otra información sobre el seguro de propiedad residencial y de seguro de automóvil personal, visite el sitio web del Departamento de Seguros de Texas/Oficina del Asesor Público de Seguros:

www.helpinsure.com

DISPUTAS POR PRIMAS DE SEGUROS O RECLAMACIONES: Si tiene una disputa relacionada con su prima de seguro o con una reclamación, usted debe comunicarse con el agente primero. Si la disputa no es resuelta, puede comunicarse con el Departamento de Seguros de Texas.

ADJUNTE ESTE AVISO A SU PÓLIZA: Este aviso es solamente para propósito de informativos y no se convierte en parte o en condición del documento adjunto.

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THIS POLICY

1. This policy consists of:
 - a. the most recently issued Declarations Page;
 - b. the policy booklet version shown on that Declarations Page; and
 - c. any endorsements that apply, including those listed on that Declarations Page as well as those issued in connection with any subsequent renewal of this policy.
2. This policy contains all of the agreements between all named insureds who are shown on the Declarations Page and *us*. No other agreements apply to this insurance.
3. **We** agree to provide insurance according to the terms of this policy based on payment of premium for the coverages chosen.
4. **Your** purchase of this policy may allow:
 - a. **you** to purchase or obtain, on the same terms and conditions as other policyholders similarly situated and of similar risk, certain coverages, coverage options, coverage deductibles, coverage limits, or coverage terms on other products from the *State Farm Companies*, subject to their applicable eligibility rules; or
 - b. the premium or price for other products or services purchased by **you**, including non-insurance products or services, to vary. Such other products or services must be provided by the

State Farm Companies or by a legal entity that has entered into an agreement or contract with the *State Farm Companies*. The *State Farm Companies*

do not warrant the merchantability, fitness, or quality of any product or service offered or provided by that legal entity.

DEFINITIONS

We define certain words and phrases below for use throughout the policy. Each coverage includes additional definitions only for use with that coverage. These definitions apply to the singular, plural, possessive, and any other form of these words and phrases. Defined words and phrases are printed in boldface italics.

Bodily Injury means bodily injury to a *person* and sickness, disease, or death that results from it.

Business Day means a day other than a Saturday, Sunday, or holiday recognized by the State of Texas.

Car means a land motor vehicle with four or more wheels, designed for use primarily on public roads. ***Car*** does not include:

1. Any vehicle while located for use as a dwelling or other premises; or
2. A truck-tractor designed to pull any type of trailer.

Car Business means a business or job where the purpose is to sell, lease, rent, repair, service, modify, transport, store, or park land motor vehicles or any type of trailer.

Employee includes a worker leased to *you* by a labor leasing firm, employee leasing company, employment-type agency, or any similar staffing service organization.

Employee does not include a worker leased to *you* by a labor leasing firm, employee leasing company, employment-type agency, or any similar staffing service organization to:

1. substitute for a permanent *employee* on leave;
2. meet the seasonal demands of *your* business; or
3. fulfill *your* short-term workload conditions.

Fungi means any type or form of fungus or fungi and includes:

1. Mold;
2. Mildew; and
3. Any of the following that are produced or released by fungi:
 - a. Mycotoxins;
 - b. Spores;
 - c. Scents; or
 - d. Byproducts.

Newly Acquired Car means a *private passenger car* newly owned by *you* or a *resident relative*. If the *private passenger car* is newly owned by:

1. *you*, it ceases to be a *newly acquired car* for:
 - a. Comprehensive Coverage and Collision Coverage on the end of the 20th calendar day immediately following the date the *private passenger car* is delivered to *you*; and
 - b. coverages, other than Comprehensive Coverage and Collision Coverage, on:
 - (1) the end of the 20th calendar day immediately following the date the *private passenger car* is delivered to *you* if it is in addition to the *cars* shown on the Declarations Page under "YOUR CAR"; or
 - (2) the end of the policy period during which the *private passenger car* is delivered to *you* if it replaces a *car* shown on the Declarations Page under "YOUR CAR". However, if this is a renewal policy and the *private passenger car* was acquired within 20 days of the end of

the previous policy period, it will cease to be a ***newly acquired car*** at the end or the 20th calendar day immediately following the date it is delivered to ***you***.

2. a ***resident relative***, it ceases to be a ***newly acquired car*** at the end of the 20th calendar day immediately following the date it is delivered to the ***resident relative***.

The broadest coverage provided by this policy for any ***car*** shown on the Declarations Page under "YOUR CAR" will apply to a ***newly acquired car***. If a ***newly acquired car*** is not otherwise afforded comprehensive coverage or collision coverage by this or any other policy, then this policy will provide Comprehensive Coverage or Collision Coverage for that ***newly acquired car***, subject to a deductible of \$500.

Refer to **Newly Owned or Newly Leased Car** of **GENERAL TERMS** if ***you*** or a ***resident relative*** want to insure a ***private passenger car*** with the ***State Farm Companies*** after it ceases to be a ***newly acquired car***.

Non-Owned Car means a ***car*** that:

1. is in the lawful possession of ***you*** or any ***resident relative***;
2. is not ***owned by***:
 - a. ***you***;
 - b. any ***resident relative***;
 - c. any other ***person*** who resides in ***your*** household; or
 - d. an employer of any ***person*** described in a., b., or c. above; and
3. has not been operated by, rented by, or in the possession of:
 - a. ***you***; or
 - b. any ***resident relative***

for more than 30 consecutive calendar days immediately prior to the date of the accident or ***loss***. Operation, rental, or possession for any part of a day constitutes a calendar day.

Occupying means in, on, entering, or exiting.

Our means the Company issuing this policy as shown on the Declarations Page.

Owned By means:

1. owned by;
2. registered to; or
3. leased, if the lease is written for a period of 31 or more consecutive days, to.

Pedestrian means a ***person*** who is not ***occupying***:

1. a motorized vehicle; or
2. a vehicle designed to be pulled by a motorized vehicle.

Person means a human being.

Private Passenger Car means:

1. a ***car*** of the private passenger type, other than a pickup truck, van, or utility vehicle, designed primarily to carry ***persons*** and their luggage; or
2. a pickup truck, van, or utility vehicle that:
 - a. is not used primarily for:
 - (1) wholesale; or
 - (2) retail
 - b. that has a Gross Vehicle Weight Rating of 25,000 pounds or less.

Resident Relative means a ***person***, other than ***you***, who resides with a ***person*** shown as a named insured on the Declarations Page and who is:

1. related to that named insured or that named insured's ***spouse*** by blood, marriage, or adoption, including an unmarried and unemancipated child of either who is away at school and otherwise maintains his or her residence with that named insured; or

2. a ward or a foster child of that named insured, that named insured's *spouse*, or a *person* described in 1. above.

Resident relative also includes a *person* who is legally married to a named insured during a period of separation in contemplation of divorce.

Spouse means a *person* who is:

1. legally married to a *person* shown as a named insured on the Declarations Page; and
2. domiciled in the same household as that named insured.

State Farm Companies means one or more of the following:

1. State Farm Mutual Automobile Insurance Company;
2. State Farm Fire and Casualty Company;
3. State Farm County Mutual Insurance Company of Texas;
4. State Farm Lloyds; and
5. Subsidiaries or affiliates of any of the companies above.

Temporary Substitute Car means a *car* that is in the lawful possession of the *person* operating it and that:

1. replaces *your car* for a short time while *your car* is out of use due to its:
 - a. breakdown;
 - b. repair;
 - c. servicing;
 - d. damage; or
 - e. theft; and
2. neither *you* nor the *person* operating it own or have registered.

If a *car* qualifies as both a *non-owned car* and a *temporary substitute car*, then it is considered a *temporary substitute car* only.

Trailer means:

1. a trailer:
 - a. designed to be pulled by a *private passenger car*;
 - b. not designed to carry *persons*; and
 - c. while not used as premises for office, store, or display purposes; or
2. a farm implement or farm wagon while being pulled on public roads by a *car*.

Us means the Company issuing this policy as shown on the Declarations Page.

We means the Company issuing this policy as shown on the Declarations Page.

You or **Your** means the named insured or named insureds shown on the Declarations Page. If a named insured shown on the Declarations Page is a *person*, then "*you*" or "*your*" includes a *spouse*.

Your Car means a vehicle shown under "YOUR CAR" on the Declarations Page. **Your Car** does not include a vehicle that *you* no longer own or lease.

If a *car* is shown on the Declarations Page under "YOUR CAR", and *you* ask *us* to replace it with a *car* newly *owned by you*, then the *car* being replaced will continue to be considered *your car* until the earliest of:

1. the end of the 30th calendar day immediately following the date the *car* newly *owned by you* is delivered to *you*;
2. the date this policy is no longer in force; or
3. the date *you* no longer own or lease the *car* being replaced.

LIABILITY COVERAGE

This policy provides Liability Coverage to the vehicles for which Symbol "A" and a corresponding premium are shown on the Declarations Page.

Additional Definition

Insured means:

1. **you** and **resident relatives** for:
 - a. the ownership, maintenance, or use of:
 - (1) **your car**;
 - (2) a **newly acquired car**; or
 - (3) a **trailer**; and
 - b. the maintenance or use of:
 - (1) a **non-owned car**; or
 - (2) a **temporary substitute car**;
2. a **person** shown as a named insured on the Declarations Page and that named insured's **spouse** for the maintenance or use of a **car** that is **owned by**, or furnished by an employer to, a **person** who resides in that named insured's household, but only if such **car** is neither **owned by**, nor furnished by an employer to, that named insured or that named insured's **spouse**;
3. any other **person** for his or her use of:
 - a. **your car**;
 - b. a **newly acquired car**;
 - c. a **temporary substitute car**; or
 - d. a **trailer** while attached to a **car** described in a., b., or c. above.

Such vehicle must be used within the scope of **your** consent; and
4. any other **person** or legal entity legally liable for the use of a vehicle by an **insured** as defined in 1., 2., or 3. above, but only for acts or omissions of an **insured** as defined in 1., 2., or 3. above. This provision applies only if the vehicle is:
 - a. neither **owned by**, nor hired by, that other **person** or legal entity; and
 - b. not being used:
 - (1) to carry **persons** for a charge; or
 - (2) by an **insured** while logged on as a driver to a ride sharing or car sharing application.

Insured does not include the United States of America or any of the Federal Government's departments or agencies.

Insuring Agreement

1. **We** will pay damages an **insured** becomes legally liable to pay because of:
 - a. **bodily injury** to others; and
 - b. damage to property, including the loss of use of such propertycaused by an accident that involves a vehicle for which that **insured** is provided Liability Coverage by this policy.
2. **We** have the right to:
 - a. investigate, negotiate, and settle any claim or lawsuit;
 - b. defend an **insured** in any claim or lawsuit, with attorneys chosen by **us**; and
 - c. appeal any award or legal decision for damages payable under this policy's Liability Coverage.

Supplementary Payments

We will pay, in addition to the damages described in the **Insuring Agreement** of this policy's Liability Coverage, those items listed below that result from such accident. Supplementary payments are not subject to this policy's Liability Coverage limits:

1. Attorney fees for attorneys chosen by **us** to defend an **insured** who is sued for such damages. **We** have no duty to pay attorney fees incurred after **we** deposit in court or pay the amount due under the **Insuring Agreement** of this policy's Liability Coverage;
2. Court costs awarded by the court against an **insured** and resulting from that part of the lawsuit:
 - a. that seeks damages payable under this policy's Liability Coverage; and
 - b. against which **we** defend an **insured** with attorneys chosen by **us**.

We have no duty to pay court costs incurred after *we* deposit in court or pay the amount due under the **Insuring Agreement** of this policy's Liability Coverage;

3. Interest the *insured* is legally liable to pay on damages payable under the **Insuring Agreement** of this policy's Liability Coverage:

- a. before a judgment, but only the interest on the lesser of:

- (1) that part of the damages *we* pay; or
(2) this policy's applicable Liability Coverage limit; and

- b. after a judgment.

We have no duty to pay interest that accrues after *we* deposit in court, pay, or offer to pay, the amount due under the **Insuring Agreement** of this policy's Liability Coverage. *We* also have no duty to pay interest that accrues on any damages paid or payable by a party other than the *insured* or *us*;

4. Premiums for bonds, provided by a company chosen by *us*, required to appeal a decision in a lawsuit against an *insured*. *We* have no duty to:

- a. pay for any bond with a face amount that exceeds this policy's applicable Liability Coverage limit;
b. furnish or apply for any bonds; or
c. pay premiums for bonds purchased after *we* deposit in court, pay, or offer to pay, the amount due under the **Insuring Agreement** of this policy's Liability Coverage; and

5. The following costs and expenses if related to and incurred after a lawsuit has been filed against an *insured*:

- a. Loss of wages or salary, but not other income, up to \$200 for each day an *insured* attends, at *our* request:
(1) an arbitration;
(2) a mediation; or

- (3) a trial of a lawsuit; and

- b. Reasonable expenses incurred by an *insured* at *our* request other than loss of wages, salary, or other income.

The amount of any of the costs or expenses listed above that are incurred by an *insured* must be reported to *us* before *we* will pay such incurred costs or expenses.

Limits

The Liability Coverage limits for *bodily injury* are shown on the Declarations Page under "Liability Coverage – Bodily Injury Limits – Each Person, Each Accident".

The limit shown under "Each Person" is the most *we* will pay for all damages resulting from *bodily injury* to any one *person* injured in any one accident, including all damages sustained by other *persons* as a result of that *bodily injury*. The limit shown under "Each Accident" is the most *we* will pay, subject to the limit for "Each Person", for all damages resulting from *bodily injury* to two or more *persons* injured in the same accident.

The Liability Coverage limit for damage to property is shown on the Declarations Page under "Liability Coverage – Property Damage Limit – Each Accident". The limit shown is the most *we* will pay for all damages resulting from damage to property in any one accident.

These Liability Coverage limits are the most *we* will pay regardless of the number of:

1. *insureds*;
2. claims made;
3. vehicles insured;
4. premiums shown on the Declarations Page; or
5. vehicles involved in the accident.

Nonduplication

We will not pay any damages or expenses under Liability Coverage:

1. that have already been paid under Personal Injury Protection Coverage of any policy issued by the *State Farm Companies* to *you* or any *resident relative*;

2. that have already been paid as expenses under Medical Payments Coverage of any policy issued by the *State Farm Companies* to *you* or any *resident relative*; or
3. that have already been paid under Uninsured/Underinsured Motorists Coverage of any policy issued by the *State Farm Companies* to *you* or any *resident relative*.

Exclusions

THERE IS NO COVERAGE FOR AN **INSURED**:

1. WHO INTENTIONALLY CAUSES **BODILY INJURY** OR DAMAGE TO PROPERTY;
2. FOR **BODILY INJURY** TO:
 - a. *YOU*;
 - b. **RESIDENT RELATIVES**; AND
 - c. ANY OTHER **PERSON** WHO BOTH RESIDES WITH AN **INSURED** AND WHO:
 - (1) IS RELATED TO THAT **INSURED** BY BLOOD, MARRIAGE, OR ADOPTION; OR
 - (2) IS A WARD OR FOSTER CHILD OF THAT **INSURED**.

This exclusion applies only to the amount that this coverage exceeds the minimum limits of liability required by law;

3. OR FOR THAT **INSURED'S** INSURER FOR ANY OBLIGATION UNDER ANY TYPE OF WORKERS' COMPENSATION, DISABILITY, OR SIMILAR LAW;
4. FOR **BODILY INJURY** TO THAT **INSURED'S EMPLOYEE** WHICH ARISES OUT OF THAT **EMPLOYEE'S** EMPLOYMENT. This exclusion does not apply to that *insured's* household *employee* who is neither covered, nor required to be covered, under workers' compensation insurance;
5. FOR **BODILY INJURY** TO THAT **INSURED'S FELLOW EMPLOYEE** WHILE THE FELLOW **EMPLOYEE** IS

IN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT. This exclusion does not apply to:

- a. *you* and *resident relatives* who are legally liable for **bodily injury** to fellow *employees*; or
 - b. that *insured's* household *employee* who is neither covered, nor required to be covered, under workers' compensation insurance;
6. FOR DAMAGES ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF A VEHICLE WHILE IT IS RENTED TO OR LEASED TO OTHERS BY AN **INSURED**;
 7. FOR DAMAGES ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF A VEHICLE:
 - a. DURING THE PERIOD OF TIME AN **INSURED**, WHILE LOGGED ON TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK AS A DRIVER, IS A DRIVER OF THAT VEHICLE; OR
 - b. WHILE IT IS BEING USED TO CARRY **PERSONS** FOR A CHARGE. This exclusion (7.b.) does not apply to the use of a *private passenger car* on a share-the-expense basis;
 8. WHILE MAINTAINING OR USING A VEHICLE IN CONNECTION WITH THAT **INSURED'S** EMPLOYMENT IN OR ENGAGEMENT OF ANY KIND IN A **CAR BUSINESS**. This exclusion does not apply to:
 - a. *you*;
 - b. any *resident relative*; or
 - c. any agent, *employee*, or business partner of a. or b. abovewhile maintaining or using *your car*, a *newly acquired car*, a *temporary substitute car*, or a *trailer owned by you*;
 9. WHILE THAT **INSURED** IS VALET PARKING A VEHICLE;

10. WHILE MAINTAINING OR USING ANY VEHICLE OTHER THAN **YOUR CAR**, A **NEWLY ACQUIRED CAR**, A **TEMPORARY SUBSTITUTE CAR**, OR A **TRAILER** IN ANY BUSINESS OR OCCUPATION OTHER THAN A **CAR BUSINESS** OR VALET PARKING. This exclusion does not apply to the maintenance or use of a *private passenger car*;
 11. FOR DAMAGE TO PROPERTY WHILE IT IS:
 - a. **OWNED BY**;
 - b. **RENTED TO**;
 - c. **USED BY**;
 - d. **IN THE CARE OF**; OR
 - e. **TRANSPORTED BY YOU, A RESIDENT RELATIVE, OR THE PERSON WHO IS LEGALLY LIABLE FOR THE DAMAGE.** This exclusion does not apply to damage to a:
 - a. motor vehicle *owned by* the employer of *you* or the employer of any *resident relative* if such damage is caused by an *insured* while operating another motor vehicle;
 - b. residence while rented to or leased to an *insured*; or
 - c. private garage while rented to or leased to an *insured*;
 12. FOR LIABILITY ASSUMED UNDER ANY CONTRACT OR AGREEMENT;
 13. FOR ANY ORDER OF RESTITUTION ISSUED BY A COURT IN A CRIMINAL PROCEEDING OR EQUITABLE ACTION. This exclusion does not apply to the extent Liability Coverage would apply in the absence of the order of restitution;
 14. WHILE USING A **TRAILER** WITH A MOTOR VEHICLE IF THAT **INSURED** IS NOT PROVIDED LIABILITY COVERAGE BY THIS POLICY FOR THE USE OF THAT MOTOR VEHICLE;
 15. FOR THE OWNERSHIP, MAINTENANCE, OR USE OF ANY VEHICLE WHILE IT IS:
 - a. OFF PUBLIC ROADS AND BEING PREPARED FOR, USED IN PRACTICE FOR, OR OPERATED IN ANY RACING CONTEST, SPEED CONTEST, HILL-CLIMBING CONTEST, JUMPING CONTEST, OR ANY SIMILAR CONTEST; OR
 - b. ON A TRACK DESIGNED PRIMARILY FOR RACING OR HIGH-SPEED DRIVING. This exclusion (15.b.) does not apply if the vehicle is being used in connection with an activity other than racing, high-speed driving, or any type of competitive driving; OR
 16. WHO IS AN EMPLOYEE OF THE UNITED STATES OF AMERICA OR ANY OF THE FEDERAL GOVERNMENT'S DEPARTMENTS OR AGENCIES, IF THE PROVISIONS OF THE FEDERAL TORT CLAIMS ACT APPLY.
- If Other Liability Coverage Applies**
1. If Liability Coverage provided by this policy and one or more other vehicle policies issued to **you** by **us** apply to the same accident, then:
 - a. the Liability Coverage limits of such policies will not be added together to determine the most that may be paid; and
 - b. the maximum amount that may be paid from all such policies combined is the single highest applicable limit provided by any one of the policies. **We** may choose one or more policies from which to make payment.
 2. The Liability Coverage provided by this policy applies as primary coverage for the ownership, maintenance, or use of **your car** or a **trailer** attached to it.
 - a. If:

- (1) this is the only vehicle policy issued to **you** by **us** that provides Liability Coverage which applies to the accident as primary coverage; and
- (2) liability coverage provided by one or more sources other than **us** also applies as primary coverage for the same accident,

then **we** will pay the proportion of damages payable as primary that **our** applicable limit bears to the sum of **our** applicable limit and the limits of all other liability coverage that apply as primary coverage.

b. If:

- (1) more than one vehicle policy issued to **you** by **us** provides Liability Coverage which applies to the accident as primary coverage; and
- (2) liability coverage provided by one or more sources other than **us** also applies as primary coverage for the same accident,

then **we** will pay the proportion of damages payable as primary that the maximum amount that may be paid by **us** as determined in 1. above bears to the sum of such amount and the limits of all other liability coverage that apply as primary coverage.

3. Except as provided in 2. above, the Liability Coverage provided by this policy applies as excess coverage.

a. If:

- (1) this is the only vehicle policy issued to **you** by **us** that provides Liability Coverage which applies to the accident as excess coverage; and
- (2) liability coverage provided by one or more sources other than **us** also applies as excess coverage for the same accident,

then **we** will pay the proportion of damages payable as excess that **our** applicable limit bears to the sum of **our** applicable limit and the limits of all other liability coverage that apply as excess coverage.

b. If:

- (1) more than one vehicle policy issued to **you** by **us** provides Liability Coverage which applies to the accident as excess coverage; and
- (2) liability coverage provided by one or more sources other than **us** also applies as excess coverage for the same accident,

then **we** will pay the proportion of damages payable as excess that the maximum amount that may be paid by **us** as determined in 1. above bears to the sum of such amount and the limits of all other liability coverage that apply as excess coverage.

Required Out-of-State Liability Coverage

If:

1. an **insured** is in another state of the United States of America, a territory or possession of the United States of America, the District of Columbia, or any province or territory of Canada, and as a nonresident becomes subject to its motor vehicle compulsory insurance law, financial responsibility law, or similar law; and
2. this policy does not provide at least the minimum liability coverage required by such law for such nonresident,

then this policy will be interpreted to provide the minimum liability coverage required by such law.

Financial Responsibility Certification

When this policy is certified under any law as proof of future financial responsibility, and while required during the policy period, this policy will comply with such law to the extent required.

PERSONAL INJURY PROTECTION COVERAGE

This policy provides Personal Injury Protection Coverage to the vehicles for which Symbol "P" and a corresponding premium are shown on the Declarations Page.

Additional Definitions

Essential Services mean services that replace services an *insured* would have ordinarily performed:

1. without pay;
2. during the period of disability; and
3. for the care and maintenance of the family or household.

Insured means:

1. *you* and *resident relatives*; and
2. any other *person* while *occupying*:
 - a. *your car*;
 - b. a *newly acquired car*;
 - c. a *temporary substitute car*; or
 - d. a *trailer*:
 - (1) *owned by you*; or
 - (2) while attached to a *car* described in a., b., or c. above.

Such vehicle must be used within the scope of *your* consent.

Loss of Income means the difference between:

1. income which would have been earned had the *insured* not been injured; and
2. the amount of income actually received from employment during the period of disability.

If the income being earned as of the date of accident is a salary or fixed remuneration, it shall be used in determining the amount of income which would have been earned. Otherwise, the average monthly income earned during the period (not more than 12 months) preceding the accident shall be used.

Personal Injury Protection Benefits mean:

1. Reasonable expenses incurred for necessary medical and funeral services; and

2. Eighty percent of an *insured's loss of income* from employment. These benefits:

- a. apply only if, at the time of the accident, the *insured*:

- (1) was an income producer; and
- (2) was in an occupational status.

- b. do not apply to any *loss of income* after the *insured* dies; or

3. Reasonable expenses incurred for *essential services*.

These benefits:

- a. apply only if, at the time of the accident, the *insured*:

- (1) was not an income producer; and
- (2) was not in an occupational status.

- b. do not apply to any expenses incurred after the *insured* dies.

Insuring Agreement

We will pay *personal injury protection benefits* because of *bodily injury*:

1. sustained by an *insured*; and
2. caused by an accident involving a motor vehicle which is designed for use primarily on public roads.

Our payment will only be for losses or expenses incurred within three years immediately following the date of the accident. Benefits are payable not more frequently than every two weeks and within 30 days after satisfactory proof of claim is received.

Limit

The Personal Injury Protection Coverage limit is shown on the Declarations Page under "Personal Injury Protection – Limit – Each Person". This limit is the most *we* will pay for *personal injury protection benefits* for any one *insured* as a result of any one accident, regardless of the number of:

1. *insureds*;
2. claims made;
3. vehicles insured;
4. premiums shown on the Declarations Page;
or
5. vehicles involved in the accident.

Exclusions

THERE IS NO COVERAGE FOR AN *INSURED*:

1. WHO SUSTAINS **BODILY INJURY** IN AN INCIDENT INTENTIONALLY CAUSED BY THAT *INSURED*;
2. WHILE THAT *INSURED* IS COMMITTING A FELONY;
3. WHILE THAT *INSURED* IS ATTEMPTING TO ELUDE ARREST BY A LAW ENFORCEMENT OFFICIAL;
4. WHILE *OCCUPYING*, OR WHEN STRUCK BY, ANY MOTOR VEHICLE **OWNED BY YOU**. This exclusion does not apply while *occupying*, or when struck by *your car*, a *newly acquired car*, or a *trailer*;
5. WHILE *OCCUPYING*, OR WHEN STRUCK BY, ANY MOTOR VEHICLE **OWNED BY ANY RESIDENT RELATIVE**. This exclusion does not apply:
 - a. while *occupying*, or when struck by *your car*, a *newly acquired car*, or a *trailer*; and
 - b. to *you*, provided that the motor vehicle is not *owned by you*; OR
6. WHO IS *OCCUPYING* A VEHICLE DURING THE PERIOD OF TIME AN *INSURED*, WHILE LOGGED ON TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK AS A DRIVER, IS A DRIVER OF THAT VEHICLE.

If Other Personal Injury Protection Coverage Applies

1. If Personal Injury Protection Coverage provided by this policy and one or more

other vehicle policies issued to *you* by *us* apply to the same **bodily injury**, then:

- a. the Personal Injury Protection Coverage limits of such policies shall not be added together to determine the most that may be paid; and
 - b. the maximum amount that may be paid from all such policies combined is the single highest applicable limit provided by any one of the policies. *We* may choose one or more policies from which to make payment.
2. The Personal Injury Protection Coverage provided by this policy applies as primary coverage except for **bodily injury** sustained by an *insured* while *occupying* a vehicle not *owned by you*.
 - a. If:
 - (1) this is the only vehicle policy issued to *you* by *us* that provides Personal Injury Protection Coverage which applies to the accident as primary coverage; and
 - (2) personal injury protection coverage provided by one or more sources other than *us* also applies as primary coverage for the same accident,then *we* will pay the proportion of **personal injury protection benefits** payable as primary that *our* applicable limit bears to the sum of *our* applicable limit and the limits of all other personal injury protection coverage that apply as primary coverage.
 - b. If:
 - (1) more than one vehicle policy issued to *you* by *us* provides Personal Injury Protection Coverage which applies to the accident as primary coverage; and
 - (2) personal injury protection coverage provided by one or more sources other than *us* also applies as primary coverage for the same accident,

- then *we* will pay the proportion of *personal injury protection benefits* payable as primary that the maximum amount that may be paid by *us* as determined in 1. above bears to the sum of such amount and the limits of all other personal injury protection coverage that apply as primary coverage.
3. The Personal Injury Protection Coverage provided by this policy applies as excess coverage for *bodily injury* sustained by an *insured* while *occupying* a vehicle not *owned by you*.
- a. If:
- (1) this is the only vehicle policy issued to *you* by *us* that provides Personal Injury Protection Coverage which applies to the accident as excess coverage; and
 - (2) personal injury protection coverage provided by one or more sources other than *us* also applies as excess coverage for the same accident,
- then *we* will pay the proportion of *personal injury protection benefits* payable as excess that *our* applicable limit bears to the sum of *our* applicable limit and the limits of all other personal injury protection coverage that apply as excess coverage.
- b. If:
- (1) more than one vehicle policy issued to *you* by *us* provides Personal Injury Protection Coverage

which applies to the accident as excess coverage; and

- (2) personal injury protection coverage provided by one or more sources other than *us* also applies as excess coverage for the same accident,

then *we* will pay the proportion of *personal injury protection benefits* payable as excess that the maximum amount that may be paid by *us* as determined in 1. above bears to the sum of such amount and the limits of all other personal injury protection coverage that apply as excess coverage.

Our Payment Options

Payment for medical expenses will be paid directly to a physician or other health care provider if *we* receive a written assignment signed by the *insured* to whom such benefits are payable. Otherwise, *we* may, at *our* option, make payment to one or more of the following:

1. The *insured*;
2. The *insured's* surviving spouse;
3. A parent or guardian of the *insured*, if the *insured* is a minor or an incompetent *person*;
4. A *person* authorized by law to receive such payment unless directed otherwise by the *insured*; or
5. Any *person* or legal entity that provides the medical or funeral services unless directed otherwise by the *insured*.

MEDICAL PAYMENTS COVERAGE

This policy provides Medical Payments Coverage to the vehicles for which Symbol "C" and a corresponding premium are shown on the Declarations Page.

Additional Definitions

Insured means:

1. *you* and *resident relatives*:
 - a. while *occupying*:
 - (1) *your car*;
 - (2) a *newly acquired car*;
 - (3) a *temporary substitute car*;

- (4) a **non-owned car**; or
- (5) a **trailer** while attached to a **car** described in (1), (2), (3), or (4) above; or
- b. if struck as a **pedestrian** by a motor vehicle or any type of trailer; and
- 2. any other **person** while **occupying**:
 - a. **your car**;
 - b. a **newly acquired car**;
 - c. a **temporary substitute car**; or
 - d. a **trailer** while attached to a **car** described in a., b., or c. above.

Such vehicle must be used within the scope of **your** consent.

Medical Expenses mean **reasonable expenses** for **medical services**.

Medical Services mean treatments, procedures, products, and other services that are:

- 1. necessary to achieve maximum medical improvement for the **bodily injury**;
- 2. rendered by a healthcare provider:
 - a. who is licensed as a healthcare provider if a license is required by law; and
 - b. within the legally authorized scope of that healthcare provider's practice;
- 3. commonly and customarily recognized throughout the medical profession and within the United States of America as appropriate for the treatment of the **bodily injury**;
- 4. primarily designed to serve a medical purpose;
- 5. not experimental; and
- 6. not for research purposes.

Reasonable Expenses mean the lowest one of the following charges:

- 1. The usual and customary fees charged by a majority of healthcare providers who provide similar **medical services** in the geographical area in which the charges were incurred;

- 2. The fee specified in any fee schedule:
 - a. applicable to medical payments coverage, no-fault coverage, or personal injury protection coverage included in motor vehicle liability policies issued in the state where **medical services** are provided; and
 - b. as prescribed or authorized by the law of the state where **medical services** are provided;
- 3. The fees agreed to by both the **insured's** healthcare provider and **us**; or
- 4. The fees agreed upon between the **insured's** healthcare provider and a third party when **we** have a contract with such third party.

Insuring Agreement

We will pay:

- 1. **medical expenses** incurred because of **bodily injury** that is sustained by an **insured** and caused by a motor vehicle accident if:
 - a. that **insured** is first provided **medical services** within one year immediately following the date of the accident; and
 - b. such **medical expenses** are for **medical services** that are provided within three years immediately following the date of the accident; and
- 2. funeral expenses incurred for an **insured** who dies within three years immediately following the date of a motor vehicle accident if the death is a direct result of **bodily injury** sustained in such accident.

Determining Medical Expenses

We have the right to:

- 1. obtain and use:
 - a. utilization reviews;
 - b. peer reviews; and
 - c. medical bill reviewsto determine if the incurred charges are **medical expenses**;

2. use a medical examination of the *insured* to determine if:
 - a. the *bodily injury* was caused by a motor vehicle accident; and
 - b. the expenses incurred are *medical expenses*; and
3. enter into a contract with a third party that has an agreement with the *insured's* healthcare provider to charge fees as determined by that agreement.

Limit

The Medical Payments Coverage limit is shown on the Declarations Page under "Medical Payments Coverage – Limit – Each Person". This limit is the most *we* will pay for the *medical expenses* and funeral expenses combined, incurred by or on behalf of any one *insured* as a result of any one accident, regardless of the number of:

1. *insureds*;
2. claims made;
3. vehicles insured;
4. premiums shown on the Declarations Page; or
5. vehicles involved in the accident.

Subject to the limit shown on the Declarations Page, the most *we* will pay for funeral expenses incurred for any one *insured* is \$3,000.

Nonduplication

We will not pay any *medical expenses* or funeral expenses under Medical Payments Coverage that have already been paid:

1. as damages under Liability Coverage or Uninsured/Underinsured Motorists Coverage of any policy issued by the *State Farm Companies* to *you* or any *resident relative*;
2. under Personal Injury Protection Coverage of any policy issued by the *State Farm Companies* to *you* or any *resident relative*; or
3. by or on behalf of a party who is legally liable for the *insured's bodily injury*.

Exclusions

THERE IS NO COVERAGE FOR AN *INSURED*:

1. WHO IS STRUCK AS A *PEDESTRIAN* BY A MOTOR VEHICLE, *OWNED BY* THAT *INSURED* OR *YOU*, IF IT IS NOT *YOUR CAR* OR A *NEWLY ACQUIRED CAR*;
2. IF ANY WORKERS' COMPENSATION LAW OR ANY SIMILAR LAW APPLIES TO THAT *INSURED'S BODILY INJURY*;
3. WHO IS *OCCUPYING* A VEHICLE WHILE IT IS RENTED TO OR LEASED TO OTHERS BY AN *INSURED*;
4. WHO IS *OCCUPYING* A VEHICLE:
 - a. DURING THE PERIOD OF TIME AN *INSURED*, WHILE LOGGED ON TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK AS A DRIVER, IS A DRIVER OF THAT VEHICLE; OR
 - b. WHILE IT IS BEING USED TO CARRY *PERSONS* FOR A CHARGE. This exclusion (4.b.) does not apply to:
 - (1) the use of a *private passenger car* on a share-the-expense basis; or
 - (2) an *insured* while *occupying* a *non-owned car* as a passenger;
5. WHILE MAINTAINING OR USING A VEHICLE IN CONNECTION WITH THAT *INSURED'S* EMPLOYMENT IN OR ENGAGEMENT OF ANY KIND IN A *CAR BUSINESS*. This exclusion does not apply to:
 - a. *you*;
 - b. any *resident relative*; or
 - c. any agent, *employee*, or business partner of a. or b. abovewhile maintaining or using *your car*, a *newly acquired car*, a *temporary substitute car*, or a *trailer owned by you*;
6. WHILE THAT *INSURED* IS VALET PARKING A VEHICLE;

7. WHILE MAINTAINING OR USING A **NON-OWNED CAR** IN ANY BUSINESS OR OCCUPATION OTHER THAN A **CAR BUSINESS** OR VALET PARKING. This exclusion does not apply to the maintenance or use of a *private passenger car*;
8. WHO IS EITHER **OCCUPYING** OR STRUCK AS A **PEDESTRIAN** BY A VEHICLE THAT IS LOCATED FOR USE AS A DWELLING OR OTHER PREMISES;
9. WHO IS STRUCK AS A **PEDESTRIAN** BY A VEHICLE THAT:
 - a. IS DESIGNED FOR USE PRIMARILY OFF PUBLIC ROADS WHILE OFF PUBLIC ROADS; OR
 - b. RUNS ON RAILS OR CRAWLER-TREADS;
10. WHOSE **BODILY INJURY** RESULTS FROM WAR OF ANY KIND;
11. WHOSE **BODILY INJURY** RESULTS FROM:
 - a. NUCLEAR REACTION;
 - b. RADIATION OR RADIOACTIVE CONTAMINATION FROM ANY SOURCE; OR
 - c. THE ACCIDENTAL OR INTENTIONAL DETONATION OF, OR RELEASE OF RADIATION FROM, ANY NUCLEAR OR RADIOACTIVE DEVICE;
12. WHOSE **BODILY INJURY** RESULTS FROM THE DISCHARGE OF A FIRE-ARM;
13. WHOSE **BODILY INJURY** RESULTS FROM EXPOSURE TO **FUNGI**; OR
14. WHO IS **OCCUPYING** A VEHICLE WHILE IT IS:
 - a. BEING PREPARED FOR, USED IN PRACTICE FOR, OR OPERATED IN ANY RACING CONTEST, SPEED CONTEST, HILL-CLIMBING

CONTEST, JUMPING CONTEST, OR ANY SIMILAR CONTEST; OR

- b. ON A TRACK DESIGNED PRIMARILY FOR RACING OR HIGH-SPEED DRIVING. This exclusion (14.b.) does not apply if the vehicle is being used in connection with an activity other than racing, high-speed driving, or any type of competitive driving.

If Other Medical Payments Coverage or Similar Vehicle Insurance Applies

1. An *insured* shall not recover for the same *medical expenses* or funeral expenses under both this coverage and other medical payments coverage, personal injury protection coverage, or similar vehicle insurance.
2. If Medical Payments Coverage provided by this policy and one or more other vehicle policies issued to *you* by *us* apply to the same *bodily injury*, then:
 - a. the Medical Payments Coverage limits of such policies shall not be added together to determine the most that may be paid; and
 - b. the maximum amount that may be paid from all such policies combined is the single highest applicable limit provided by any one of the policies. *We* may choose one or more policies from which to make payment.
3. The Medical Payments Coverage provided by this policy applies as primary coverage for an *insured* who sustains *bodily injury* while *occupying your car* or a *trailer* attached to it.
 - a. If:
 - (1) this is the only vehicle policy issued to *you* by *us* that provides Medical Payments Coverage or other similar vehicle insurance which applies to the accident as primary coverage; and
 - (2) medical payments coverage or other similar vehicle insurance provided by one or more sources

other than **us** also applies as primary coverage for the same accident,

then **we** will pay the proportion of **medical expenses** and funeral expenses payable as primary that **our** applicable limit bears to the sum of **our** applicable limit and the limits of all other medical payments coverage or similar vehicle insurance that apply as primary coverage.

b. If:

- (1) more than one vehicle policy issued to **you** by **us** provides Medical Payments Coverage or other similar vehicle insurance which applies to the accident as primary coverage; and
- (2) medical payments coverage or other similar vehicle insurance provided by one or more sources other than **us** also applies as primary coverage for the same accident,

then **we** will pay the proportion of **medical expenses** and funeral expenses payable as primary that the maximum amount that may be paid by **us** as determined in 2. above bears to the sum of such amount and the limits of all other medical payments coverage or similar vehicle insurance that apply as primary coverage.

4. Except as provided in 3. above, the Medical Payments Coverage provided by this policy applies as excess coverage.

a. If:

- (1) this is the only vehicle policy issued to **you** by **us** that provides Medical Payments Coverage or other similar vehicle insurance which applies to the accident as excess coverage; and
- (2) medical payments coverage or other similar vehicle insurance provided by one or more sources

other than **us** also applies as excess coverage for the same accident,

then **we** will pay the proportion of **medical expenses** and funeral expenses payable as excess that **our** applicable limit bears to the sum of **our** applicable limit and the limits of all other medical payments coverage or similar vehicle insurance that apply as excess coverage.

b. If:

- (1) more than one vehicle policy issued to **you** by **us** provides Medical Payments Coverage or other similar vehicle insurance which applies to the accident as excess coverage; and
- (2) medical payments coverage or other similar vehicle insurance provided by one or more sources other than **us** also applies as excess coverage for the same accident,

then **we** will pay the proportion of **medical expenses** and funeral expenses payable as excess that the maximum amount that may be paid by **us** as determined in 2. above bears to the sum of such amount and the limits of all other medical payments coverage or similar vehicle insurance that apply as excess coverage.

Our Payment Options

Payment for **medical expenses** will be paid directly to a physician or other health care provider if **we** receive a written assignment signed by the **insured** to whom such benefits are payable. Otherwise, **we** may, at **our** option, make payment to one or more of the following:

1. The **insured**;
2. The **insured's** surviving spouse;
3. A parent or guardian of the **insured**, if the **insured** is a minor or an incompetent **person**;

4. A **person** authorized by law to receive such payment unless directed otherwise by the **insured**; or
5. Any **person** or legal entity that provides the **medical services** or funeral services unless directed otherwise by the **insured**.

UNINSURED/UNDERINSURED MOTORISTS COVERAGE

This policy provides Uninsured/Underinsured Motorists Coverage to the vehicles for which Symbol "U" and a corresponding premium are shown on the Declarations Page.

Additional Definitions

Insured means:

1. **you**;
2. **resident relatives**;
3. any other **person** while **occupying**:
 - a. **your car**;
 - b. a **newly acquired car**; or
 - c. a **temporary substitute car**.

Such vehicle must be used within the scope of **your** consent. Such other **person occupying** a vehicle used to carry **persons** for a charge is not an **insured**; and

4. any **person** or legal entity entitled to recover compensatory damages as a result of **bodily injury** to an **insured** as defined in 1., 2., or 3. above.

Property Damage means damage to, destruction of or loss of use of:

1. **your car**;
2. a **newly acquired car**;
3. a **trailer owned by you**; and
4. property:
 - a. that **you** or **resident relatives** own while contained in:
 - (1) **your car**, a **newly acquired car**, a **temporary substitute car**, a **trailer owned by you**; or
 - (2) any other motor vehicle designed for use on public roads that **you** or a **resident relative** do not own, but

only if such motor vehicle is being operated by **you** or a **resident relative**.

- b. that an **insured**, other than **you** or a **resident relative**, owns while contained in **your car**, a **newly acquired car**, a **temporary substitute car**, or a **trailer owned by you**.

Self-insurance, **self-insured**, or **self-insurer** mean self-insurance, self-insured, or self-insurer under the Transportation Code, Insurance Code, or any applicable motor vehicle law.

Uninsured Motor Vehicle means:

1. a land motor vehicle or any type of trailer:
 - a. the ownership, maintenance, and use of which is:
 - (1) not:
 - (a) insured;
 - (b) **self-insured**; or
 - (c) bondedfor liability at the time of the accident; or
 - (2) insured, **self-insured**, or bonded for liability at the time of the accident; but
 - (a) the bonding or insuring company or the **self-insurer** denies that its policy or bond provides coverage for compensatory damages that result from the accident; or
 - (b) the bonding or insuring company or the **self-insurer** is or becomes insolvent; or
 - b. the owner or driver of which remain unknown and which hits:

- (1) *you* or a *resident relative*;
 - (2) a vehicle *occupied* by *you* or a *resident relative*; or
 - (3) *your car*, a *newly acquired car*, a *temporary substitute car*, or a *trailer owned by you*; or
2. an underinsured motor vehicle. An underinsured motor vehicle is a land motor vehicle or any type of trailer:
 - a. the ownership, maintenance, and use of which is insured, *self-insured*, or bonded for liability at the time of the accident; and
 - b. for which the total limits of insurance, *self-insurance*, and bonds for liability from all sources:
 - (1) are not enough to pay the full amount the *insured* is legally entitled to recover as damages; or
 - (2) have been reduced by payment of claims to an amount which is not enough to pay the full amount the *insured* is legally entitled to recover as damages.

Uninsured Motor Vehicle does not include a land motor vehicle:

1. whose ownership, maintenance, or use is provided Liability Coverage by this policy;
2. *owned by*, rented to, or furnished or available for the regular use of *you* or any *resident relative*;
3. *owned by* or rented to any government or any of its political subdivisions or agencies unless:
 - a. the operator of the vehicle is uninsured; and
 - b. there is no statute imposing liability for damage because of *bodily injury* or *property damage* on the governmental body for an amount not less than the limit of liability for this coverage;
4. designed for use primarily off public roads except while on public roads; or

5. while located for use as a dwelling or other premises.

Insuring Agreement

We will pay compensatory damages for *bodily injury* or *property damage* an *insured* is legally entitled to recover from the owner or driver of an *uninsured motor vehicle*. The *bodily injury* must be sustained by an *insured*. The *bodily injury* and *property damage* must be caused by an accident that involves the ownership, maintenance, or use of an *uninsured motor vehicle* as a motor vehicle. If *we* and *you* do not agree as to whether or not a vehicle is actually uninsured, the burden of proof as to that issue shall be on *us*.

Consent to Settlement

The *insured* must inform *us* of a settlement offer, if any, proposed by or on behalf of the owner or driver of the *uninsured motor vehicle*, and the *insured* must request *our* written consent to accept such settlement offer.

If *we*:

1. consent in writing, then the *insured* may accept such settlement offer.
2. inform the *insured* in writing that *we* do not consent, then the *insured* may not accept such settlement offer and:
 - a. *we* will make payment to the *insured* in an amount equal to such settlement offer. This payment is considered a payment made by or on behalf of the owner or driver of the *uninsured motor vehicle*; and
 - b. any recovery from or on behalf of the owner or driver of the *uninsured motor vehicle* shall first be used to repay *us*.

Deciding Fault and Amount

1. a. The *insured* and *we* must agree to the answers to the following two questions:
 - (1) Is the *insured* legally entitled to recover compensatory damages from the owner or driver of the *uninsured motor vehicle*?

- (2) If the *insured* and *we* agree that the answer to 1.a.(1) above is yes, then what is the amount of the compensatory damages that the *insured* is legally entitled to recover from the owner or driver of the *uninsured motor vehicle*?
 - b. If there is no agreement on the answer to either question in 1.a. above, then the *insured* shall:
 - (1) file a lawsuit, in a state or federal court that has jurisdiction, against:
 - (a) *us*;
 - (b) the owner and driver of the *uninsured motor vehicle* unless *we* have consented to a settlement offer proposed by or on behalf of such owner or driver; and
 - (c) any other party or parties who may be legally liable for the *insured's* damages;
 - (2) consent to a jury trial if requested by *us*;
 - (3) agree that *we* may contest the issues of liability and the amount of damages; and
 - (4) secure a judgment in that action. The judgment must be the final result of an actual trial and any appeals, if any appeals are taken.
 2. *We* are not bound by any:
 - a. judgment obtained without *our* written consent; and
 - b. default judgment against any *person* or legal entity other than *us*.
 3. Regardless of the amount of any award, including any judgment or default judgment, *we* are not obligated to pay any amount in excess of the available limits under this coverage of this policy.
- shown on the Declarations Page under "Uninsured/Underinsured Motorists Coverage – Bodily Injury Limits – Each Person, Each Accident".
- a. The most *we* will pay for all damages resulting from *bodily injury* to any one *insured* injured in any one accident, including all damages sustained by other *insureds* as a result of that *bodily injury*, is the limit shown under "Each Person".
 - b. Subject to a. above, the most *we* will pay for all damages resulting from *bodily injury* to two or more *insureds* injured in the same accident is the limit shown under "Each Accident".
2. The Uninsured/Underinsured Motorists Coverage limit for *property damage* is shown on the Declarations Page under "Uninsured/Underinsured Motorists Coverage – Property Damage Limit – Each Accident". This is the most *we* will pay for all *property damage* as the result of any one accident.
 3. These Uninsured/Underinsured Motorists Coverage limits are the most *we* will pay regardless of the number of:
 - a. *insureds*;
 - b. claims made;
 - c. policies or bonds applicable;
 - d. vehicles insured;
 - e. premiums shown on the Declarations Page; or
 - f. vehicles involved in the accident.

Nonduplication

1. *We* will not pay under Uninsured/Underinsured Motorists Coverage any damages:
 - a. that have already been paid to or for the *insured*:
 - (1) by or on behalf of any *person* or legal entity who is or may be held legally liable for the *bodily injury*

Limits

1. The Uninsured/Underinsured Motorists Coverage limits for *bodily injury* are

to the *insured* or *property damage*; or

- (2) for *bodily injury* or *property damage* under Liability Coverage of any policy issued by the *State Farm Companies* to *you* or any *resident relative*;
 - b. that:
 - (1) have already been paid; or
 - (2) could be paidto or for the *insured* under any workers' compensation law, disability benefits law, or similar law. *We* will also not pay any damages that could have been paid under any such law, if the *insured* had pursued a claim in timely fashion;
 - c. that have already been paid under the Personal Injury Protection Coverage of this policy or the personal injury protection coverage of any other policy;
 - d. that have already been paid as expenses under Medical Payments Coverage of this policy, the medical payments coverage of any other motor vehicle policy, or other similar vehicle insurance; or
 - e. that are *property damage* paid or payable under any policy of property insurance.
2. For any *property damage* to which the Physical Damage Coverages (or similar coverage from another policy) and this coverage both apply, *you* may choose the coverage from which damages will be paid. *You* may recover under both coverages, but only if:
 - a. Neither one by itself is sufficient to cover the loss;
 - b. *You* pay the higher deductible amount (but *you* do not have to pay both deductibles); and
 - c. *You* will not recover more than the actual damages.

Exclusions

THERE IS NO COVERAGE:

1. FOR AN *INSURED* WHO, WITHOUT *OUR* WRITTEN CONSENT, SETTLES WITH ANY *PERSON* OR LEGAL ENTITY WHO MAY BE LIABLE FOR THE *BODILY INJURY* OR *PROPERTY DAMAGE*;
2. FOR AN *INSURED* WHO SUSTAINS *BODILY INJURY*:
 - a. WHILE *OCCUPYING* A MOTOR VEHICLE *OWNED BY YOU* IF IT IS NOT *YOUR CAR* OR A *NEWLY ACQUIRED CAR*;
 - b. WHILE *OCCUPYING* A MOTOR VEHICLE *OWNED BY ANY RESIDENT RELATIVE* IF IT IS NOT *YOUR CAR* OR A *NEWLY ACQUIRED CAR*. However, if the motor vehicle is not *owned by you* or any *person* included in the definition of *you*, then this exclusion (2.b.) does not apply to *you* to the extent the Uninsured/Underinsured Motorists Coverage limit provided by this policy exceeds the uninsured/underinsured motorists coverage limit, if any, provided by a policy insuring the *resident relative's* motor vehicle;
3. FOR AN *INSURED* WHOSE *BODILY INJURY* RESULTS FROM THE DISCHARGE OF A FIREARM;
4. TO THE EXTENT IT BENEFITS:
 - a. ANY WORKERS' COMPENSATION OR DISABILITY BENEFITS INSURANCE COMPANY;
 - b. A SELF-INSURER UNDER ANY WORKERS' COMPENSATION LAW, DISABILITY BENEFITS LAW, OR SIMILAR LAW; OR
 - c. ANY GOVERNMENT OR ANY OF ITS POLITICAL SUBDIVISIONS OR AGENCIES;
5. FOR AN *INSURED* WHOSE *BODILY INJURY* RESULTS FROM:

- a. NUCLEAR REACTION;
 - b. RADIATION OR RADIOACTIVE CONTAMINATION FROM ANY SOURCE; OR
 - c. THE ACCIDENTAL OR INTENTIONAL DETONATION OF, OR RELEASE OF RADIATION FROM, ANY NUCLEAR OR RADIOACTIVE DEVICE;
6. FOR AN **INSURED** WHO INTENTIONALLY CAUSES **BODILY INJURY** TO THAT **INSURED** OR **PROPERTY DAMAGE** TO PROPERTY THAT **INSURED** OWNS;
 7. FOR PUNITIVE OR EXEMPLARY DAMAGES;
 8. FOR ANY ORDER OF RESTITUTION ISSUED BY A COURT IN A CRIMINAL PROCEEDING OR EQUITABLE ACTION. This exclusion does not apply to the extent Uninsured/Underinsured Motorists Coverage would apply in the absence of the order of restitution;
 9. FOR AN **INSURED** WHO IS **OCCUPYING** A VEHICLE DURING THE PERIOD OF TIME AN **INSURED**, WHILE LOGGED ON TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK AS A DRIVER, IS A DRIVER OF THAT VEHICLE; OR
 10. FOR THE FIRST \$250 OF **PROPERTY DAMAGE** TO THE PROPERTY OF THAT **PERSON** RESULTING FROM ONE ACCIDENT.

If Other Uninsured/Underinsured Motorists Coverage Applies

1. If Uninsured/Underinsured Motorists Coverage provided by this policy and one or more other vehicle policies issued to **you** by **us** apply to the same **bodily injury**, then:
 - a. the Uninsured/Underinsured Motorists Coverage limits of such policies will not be added together to determine the most that may be paid; and
 - b. the maximum amount that may be paid from all such policies combined is the single highest applicable limit provided by any one of the policies. **We** may choose one or more policies from which to make payment.
2. The Uninsured/Underinsured Motorists Coverage provided by this policy applies as primary coverage for an **insured** who sustains **bodily injury** while **occupying your car**.
 - a. If:
 - (1) this is the only vehicle policy issued to **you** by **us** that provides Uninsured/Underinsured Motorists Coverage which applies to the accident as primary coverage; and
 - (2) uninsured/underinsured motorists coverage provided by one or more sources other than **us** also applies as primary coverage for the same accident,
then **we** will pay the proportion of damages payable as primary that **our** applicable limit bears to the sum of **our** applicable limit and the limits of all other uninsured/underinsured motorists coverage that apply as primary coverage.
 - b. If:
 - (1) more than one vehicle policy issued to **you** by **us** provides Uninsured/Underinsured Motorists Coverage which applies to the accident as primary coverage; and
 - (2) uninsured/underinsured motorists coverage provided by one or more sources other than **us** also applies as primary coverage for the same accident,
then **we** will pay the proportion of damages payable as primary that the maximum amount that may be paid by **us** as determined in 1. above bears to the sum of such amount and the limits of all other uninsured/underinsured

- motorists coverage that apply as primary coverage.
3. Except as provided in 2. above, the Uninsured/Underinsured Motorists Coverage provided by this policy applies as excess coverage.
- a. If:
- (1) this is the only vehicle policy issued to *you* by *us* that provides Uninsured/Underinsured Motorists Coverage which applies to the accident as excess coverage; and
 - (2) uninsured/underinsured motorists coverage provided by one or more sources other than *us* also applies as excess coverage for the same accident,
- then *we* will pay the proportion of damages payable as excess that *our* applicable limit bears to the sum of *our* applicable limit and the limits of all other uninsured/underinsured motorists coverage that apply as excess coverage.
- b. If:
- (1) more than one vehicle policy issued to *you* by *us* provides

Uninsured/ Underinsured Motorists Coverage which applies to the accident as excess coverage; and

(2) uninsured/underinsured motorists coverage provided by one or more sources other than *us* also applies as excess coverage for the same accident,

then *we* will pay the proportion of damages payable as excess that the maximum amount that may be paid by *us* as determined in 1. above bears to the sum of such amount and the limits of all other uninsured/underinsured motorists coverage that apply as excess coverage.

Our Payment Options

We may, at *our* option, make payment to one or more of the following:

1. The *insured*;
2. The *insured's* surviving spouse;
3. A parent or guardian of the *insured*, if the *insured* is a minor or an incompetent *person*; or
4. A *person* authorized by law to receive such payments unless directed otherwise by the *insured*.

PHYSICAL DAMAGE COVERAGES

The physical damage coverages are Comprehensive Coverage, Collision Coverage, Emergency Road Service Coverage, and Car Rental and Travel Expenses Coverage.

This policy provides:

1. Comprehensive Coverage if "D";
2. Collision Coverage if "G";
3. Emergency Road Service Coverage if "H";
4. Car Rental and Travel Expenses Coverage if "R1"

is shown under "SYMBOLS" on the Declarations Page, but only for those vehicles for which a premium is shown for that coverage.

Deductible

A Comprehensive Coverage deductible or a Collision Coverage deductible applies to those vehicles for which a deductible and a corresponding coverage symbol and premium are shown on the Declarations Page. However, *we* will not deduct more than \$500 for any:

1. *loss* to a *newly acquired car* if "D"; or

2. *loss caused by collision* to a *newly acquired car* if “G”

is shown under “SYMBOLS” on the Declarations Page.

Additional Definitions

Covered Vehicle means:

1. *your car*;
2. a *newly acquired car*;
3. a *temporary substitute car*;
4. a camper that is designed to be mounted on a pickup truck and shown on the Declarations Page;
5. a *non-owned car* while it is:
 - a. being driven by an *insured*; or
 - b. in the custody of an *insured* if at the time of the *loss* it is:
 - (1) not being driven; or
 - (2) being driven by a *person* other than an *insured* and being *occupied* by an *insured*;
6. a *non-owned trailer* while it is being used by an *insured*; and
7. a *non-owned camper* while it is being used by an *insured*;

including its parts and its equipment that are common to the use of the vehicle as a vehicle. However, parts and equipment of *trailers* and campers must be securely fixed as a permanent part of the *trailer* or camper.

Daily Rental Charge means the sum of:

1. the daily rental rate;
2. mileage charges; and
3. related taxes.

Insured means *you* and *resident relatives*.

Loss means:

1. direct, sudden, and accidental damage to; or
2. total or partial theft of

a *covered vehicle*. *Loss* does not include any reduction in the value of any *covered vehicle*

after it has been repaired, as compared to its value before it was damaged.

Loss Caused By Collision means a *loss* caused by:

1. a *covered vehicle* hitting or being hit by another vehicle or another object; or
2. the overturning of a *covered vehicle*.

Any *loss* caused by missiles, falling objects, windstorm, hail, fire, explosion, earthquake, water, flood, total or partial theft, malicious mischief, vandalism, riot, civil commotion, or hitting or being hit by a bird or an animal is not a *Loss Caused By Collision*.

Non-Owned Camper means a camper designed to be mounted on a pickup truck that:

1. is in the lawful possession of an *insured*;
2. is not *owned by*:
 - a. an *insured*;
 - b. any other *person* who resides in *your* household; or
 - c. an employer of any *person* described in a. or b. above; and
3. has not been used by, rented by, or in the possession of an *insured* for more than 30 consecutive calendar days immediately prior to the date of the *loss*. Use, rental, or possession for any part of a day constitutes a calendar day.

Non-Owned Trailer means a *trailer* that:

1. is in the lawful possession of an *insured*;
2. is not *owned by*:
 - a. an *insured*;
 - b. any other *person* who resides in *your* household; or
 - c. an employer of any *person* described in a. or b. above; and
3. has not been used by, rented by, or in the possession of an *insured* for more than 30 consecutive calendar days immediately prior to the date of the *loss*. Use, rental, or possession for any part of a day constitutes a calendar day.

Insuring Agreements

1. Comprehensive Coverage

We will pay:

- a. for *loss*, except *loss caused by collision*, to a *covered vehicle*; and
- b. transportation expenses incurred by an *insured* as a result of the total theft of *your car* or a *newly acquired car*. These transportation expenses are payable:

(1) during the period that:

- (a) starts on the date *you* report the theft to *us*; and
- (b) ends on the earliest of:
 - (i) the date the vehicle is returned to *your* possession in a drivable condition;
 - (ii) the date *we* offer to pay for the *loss* if the vehicle has not yet been recovered; or
 - (iii) the date *we* offer to pay for the *loss* if the vehicle is recovered, but is a total loss as determined by *us*; and

(2) during the period that:

- (a) starts on the date the vehicle is left at a repair facility if the stolen vehicle is recovered, returned to *your* possession in a drivable condition, and has unrepaired damage that resulted from the total theft; and
- (b) ends on the date the vehicle is repaired.

These transportation expenses must be reported to *us* before *we* will pay such incurred expenses.

Refer to **Limits and Loss Settlement – Comprehensive Coverage and Collision Coverage** for the most *we* will pay per day and per *loss*.

2. Collision Coverage

We will pay for *loss caused by collision* to a *covered vehicle*.

3. Emergency Road Service Coverage

We will pay the fair cost incurred by an *insured* for:

- a. up to one hour of labor to repair a *covered vehicle* at the place of its breakdown;
- b. towing to the nearest repair facility where necessary repairs can be made if a *covered vehicle* is not drivable;
- c. towing a *covered vehicle* out of a location where it is stuck if the vehicle is on or immediately next to a public road;
- d. delivery of gas, oil, battery, or tire necessary to return a *covered vehicle* to driving condition. *We* do not pay the cost of the gas, oil, battery, or tire; and
- e. up to one hour of labor for locksmith services to unlock a *covered vehicle* if its key is lost, stolen, or locked inside the vehicle.

4. Car Rental and Travel Expenses Coverage

a. Car Rental Expense

We will pay the *daily rental charge* incurred when an *insured* rents a *car* from a *car business* while *your car* or a *newly acquired car* is:

- (1) not drivable; or
- (2) being repaired

as a result of a *loss* which would be payable under Comprehensive Coverage or Collision Coverage.

We will pay this *daily rental charge* incurred during a period that:

(1) starts on the date:

- (a) the vehicle is not drivable as a result of the *loss*; or

- (b) the vehicle is left at a repair facility if the vehicle is drivable; and
- (2) ends on the earliest of:
 - (a) the date the vehicle has been repaired or replaced;
 - (b) the date *we* offer to pay for the *loss* if the vehicle is repairable but *you* choose to delay repairs; or
 - (c) seven days after *we* offer to pay for the *loss* if the vehicle is:
 - (i) a total loss as determined by *us*; or
 - (ii) stolen and not recovered.

The amount of any such *daily rental charge* incurred by an *insured* must be reported to *us* before *we* will pay such amount.

Refer to **Car Rental Expense of Limits – Car Rental and Travel Expenses Coverage** for the most *we* will pay.

b. **Travel Expenses**

We will pay expenses for commercial transportation, lodging, and meals if *your car* or a *newly acquired car* is not drivable as a result of a *loss* which would be payable under Comprehensive Coverage or Collision Coverage. The *loss* must occur more than 50 miles from *your* home. *We* will only pay these expenses if they are incurred by:

- (1) an *insured* during the period that:
 - (a) starts after the *loss* occurs; and
 - (b) ends on the earlier of:
 - (i) the *insured's* arrival at his or her destination or home if the vehicle is left behind for repairs; or
 - (ii) the repair of the vehicle if the *insured* waits for repairs before continuing on

to his or her destination or returning home; and

- (2) *you*, or any *person you* choose, to travel to retrieve the vehicle and drive it to either the original destination or *your* home if the vehicle was left behind for repairs.

These expenses must be reported to *us* before *we* will pay such incurred expenses.

Refer to **Travel Expenses of Limits – Car Rental and Travel Expenses Coverage** for the most *we* will pay.

c. **Rental Car – Repayment of Deductible Expense**

We will pay the comprehensive coverage deductible or collision coverage deductible an *insured* is required to pay the owner of a *car* rented from a *car business*.

Refer to **Rental Car – Repayment of Deductible Expense of Limits – Car Rental and Travel Expenses Coverage** for the most *we* will pay.

Supplementary Payments – Comprehensive Coverage and Collision Coverage

If the *covered vehicle* sustains *loss* for which *we* make a payment under Comprehensive Coverage or Collision Coverage, then *we* will pay reasonable expenses incurred to:

- 1. tow the *covered vehicle* immediately after the *loss*:
 - a. for a reasonable distance from the location of the *loss* to any one repair facility chosen by an *insured* or the owner of the *covered vehicle*, if the *covered vehicle* is not drivable; or
 - b. to any one repair facility or commercial storage facility, neither of which was chosen by an *insured* or the owner of the *covered vehicle*. *We* will also pay reasonable expenses incurred to tow the *covered vehicle* for a reasonable distance from this facility to any one repair facility chosen by an *insured*

- or the owner of the **covered vehicle**, if the **covered vehicle** is not drivable;
2. store the **covered vehicle**, if it is not drivable immediately after the **loss**, at:
 - a. any one repair facility or commercial storage facility, neither of which was chosen by an **insured** or the owner of the **covered vehicle**; and
 - b. any one repair facility chosen by the owner of the **covered vehicle**, and **we** determine such vehicle is a total loss.
- If the owner of the **covered vehicle** consents, then **we** may move the **covered vehicle** at **our** expense to reduce storage costs. If the owner of the **covered vehicle** does not consent, then **we** will pay only the storage costs that would have resulted if **we** had moved the damaged **covered vehicle**; and
3. clean up debris from the **covered vehicle** at the location of the **loss**. The most **we** will pay to clean up the debris is \$250 for any one **loss**.

Limits and Loss Settlement – Comprehensive Coverage and Collision Coverage

1. **We** have the right to choose to settle with **you** or the owner of the **covered vehicle** in one of the following ways:
 - a. Pay the cost to repair the **covered vehicle** minus any applicable deductible.
 - (1) **We** have the right to choose one of the following to determine the cost to repair the **covered vehicle**:
 - (a) The cost agreed to by both the owner of the **covered vehicle** and **us**;
 - (b) A bid or repair estimate approved by **us**; or
 - (c) A repair estimate that is written based upon or adjusted to:
 - (i) the prevailing competitive price;
 - (ii) the paintless dent repair price that is competitive in the market; or

- (iii) a combination of (i) and (ii) above.

The prevailing competitive price means prices charged by a majority of the repair market in the area where the **covered vehicle** is to be repaired as determined by a survey made by **us**. If asked, **we** will identify some facilities that will perform the repairs at the prevailing competitive price. The estimate will include parts sufficient to restore the **covered vehicle** to its pre-loss condition.

You agree with **us** that the repair estimate may include new, used, recycled, and reconditioned parts. Any of these parts may be either original equipment manufacturer parts or non-original equipment manufacturer parts.

- (2) The cost to repair the **covered vehicle** does not include any reduction in the value of the **covered vehicle** after it has been repaired, as compared to its value before it was damaged.
 - (3) If **you** and **we** agree, then windshield glass will be repaired instead of replaced;
- b. Pay the actual cash value of the **covered vehicle** minus any applicable deductible.
 - (1) The owner of the **covered vehicle** and **we** must agree upon the actual cash value of the **covered vehicle**. If there is disagreement as to the actual cash value of the **covered vehicle**, then the disagreement will be resolved by appraisal upon written request of the owner or **us**, using the following procedures:
 - (a) The owner and **we** will each select a competent appraiser.

- (b) The two appraisers will select a third competent appraiser. If they are unable to agree on a third appraiser within 30 days, then either the owner or *we* may petition a court that has jurisdiction to select the third appraiser.
 - (c) Each party will pay the cost of its own appraiser, attorneys, and expert witnesses, as well as any other expenses incurred by that party. Both parties will share equally the cost of the third appraiser.
 - (d) The appraisers shall only determine the actual cash value of the *covered vehicle*. Appraisers shall have no authority to decide any other questions of fact, decide any questions of law, or conduct appraisal on a class-wide or class-representative basis.
 - (e) A written appraisal that is both agreed upon by and signed by any two appraisers, and that also contains an explanation of how they arrived at their appraisal, will be binding on the owner of the *covered vehicle* and *us*.
 - (f) *We* do not waive any of *our* rights by submitting to an appraisal.
- (2) The damaged *covered vehicle* must be given to *us* in exchange for *our* payment, unless *we* agree that the owner may keep it. If the owner keeps the *covered vehicle*, then *our* payment will be reduced by the value of the *covered vehicle* after the *loss*; or
- c. Return the stolen *covered vehicle* to its owner and pay, as described in 1.a. above, for any direct, sudden, and accidental damage that resulted from the theft.
- 2. The most *we* will pay for transportation expenses under Comprehensive Coverage is \$25 per day subject to an aggregate limit of \$750 per *loss*.
 - 3. The most *we* will pay for *loss* to a *non-owned trailer* or a *non-owned camper* is \$2,500.
- Limits – Car Rental and Travel Expenses Coverage**
- 1. **Car Rental Expense**
The limit for Car Rental Expense is shown on the Declarations Page under “Limit – Car Rental Expense – Each Day, Each Loss”.
 - a. The limit shown under “Each Day” is the most *we* will pay for the *daily rental charge*. If:
 - (1) a dollar amount is shown, then *we* will pay the *daily rental charge* up to that dollar amount; or
 - (2) a percentage amount is shown, then *we* will pay that percentage of the *daily rental charge*.
 - b. Subject to the “Each Day” limit, the limit shown under “Each Loss” is the most *we* will pay for Car Rental Expense incurred as a result of any one *loss*.
 - 2. **Travel Expenses**
The most *we* will pay for Travel Expenses incurred by all *insureds* as a result of any one *loss* is \$500.
 - 3. **Rental Car – Repayment of Deductible Expense**
The most *we* will pay for Rental Car – Repayment of Deductible Expense incurred as a result of any one *loss* is \$500.
- Nonduplication**
- 1. *We* will not pay for any *loss* or expense under the Physical Damage Coverages for which the *insured* or owner of the *covered vehicle* has already received payment from,

or on behalf of, a party who is legally liable for the **loss** or expense.

2. For any damage to property to which the Uninsured/Underinsured Motorists Coverage (from this or any another policy) and one of the Physical Damage Coverages both apply, **you** may choose the coverage from which damages will be paid. **You** may recover under both coverages, but only if:
 - a. Neither one by itself is sufficient to cover the **loss**;
 - b. **You** pay the higher deductible amount (but **you** do not have to pay both deductibles); and
 - c. **You** will not recover more than the actual damages.

Exclusions

THERE IS NO COVERAGE FOR:

1. ANY **COVERED VEHICLE** THAT IS:
 - a. INTENTIONALLY DAMAGED; OR
 - b. STOLENBY OR AT THE DIRECTION OF AN **INSURED**;
2. ANY **COVERED VEHICLE** WHILE IT IS RENTED TO OR LEASED TO OTHERS BY AN **INSURED**;
3. ANY **COVERED VEHICLE**:
 - a. DURING THE PERIOD OF TIME THE DRIVER OF THE **COVERED VEHICLE** IS LOGGED ON AS A DRIVER TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK; OR
 - b. WHILE IT IS BEING USED TO CARRY **PERSONS** FOR A CHARGE. This exclusion (3.b.) does not apply to the use of a **private passenger car** on a share-the-expense basis;
4. ANY **COVERED VEHICLE** DUE TO:
 - a. THEFT;
 - b. CONVERSION;
 - c. EMBEZZLEMENT; OR

d. SECRETION

BY AN **INSURED**, A CONSIGNEE, AN AGENT OF A CONSIGNEE, OR A **PERSON** WHO OBTAINS POSSESSION OF THE **COVERED VEHICLE** WITH THE PERMISSION OF A CONSIGNEE OR AGENT OF A CONSIGNEE;

5. **LOSS TO YOUR CAR** OR A **NEWLY ACQUIRED CAR** IF AN **INSURED** VOLUNTARILY RELINQUISHES POSSESSION OF THAT **CAR** TO A **PERSON** OR LEGAL ENTITY UNDER AN ACTUAL OR PRESUMED SALES AGREEMENT;
6. ANY **COVERED VEHICLE** TO THE EXTENT **OUR** PAYMENT WOULD BENEFIT ANY CARRIER OR OTHER BAILEE FOR HIRE THAT IS LIABLE FOR **LOSS** TO SUCH **COVERED VEHICLE**;
7. **LOSS** TO ANY **COVERED VEHICLE** DUE TO **FUNGI**. **WE** WILL ALSO NOT PAY FOR ANY TESTING OR REMEDIATION OF **FUNGI**, OR ANY ADDITIONAL COSTS REQUIRED TO REPAIR ANY **COVERED VEHICLE** THAT ARE DUE TO THE EXISTENCE OF **FUNGI**. This exclusion does not apply if the **fungi** result from a **loss** which would be payable under Comprehensive Coverage or Collision Coverage;
8. **LOSS** TO ANY **COVERED VEHICLE** THAT RESULTS FROM:
 - a. NUCLEAR REACTION;
 - b. RADIATION OR RADIOACTIVE CONTAMINATION FROM ANY SOURCE; OR
 - c. THE ACCIDENTAL OR INTENTIONAL DETONATION OF, OR RELEASE OF RADIATION FROM, ANY NUCLEAR OR RADIOACTIVE DEVICE;
9. **LOSS** TO ANY **COVERED VEHICLE** THAT RESULTS FROM THE TAKING OF OR SEIZURE OF THAT **COVERED VEHICLE** BY ANY GOVERNMENTAL AUTHORITY;

10. **LOSS** TO ANY **COVERED VEHICLE** THAT RESULTS FROM WAR OF ANY KIND;

11. **YOUR CAR** WHILE SUBJECT TO ANY:

- a. RENTAL AGREEMENT; OR
- b. LEASE AGREEMENT

NOT SHOWN ON THE DECLARATIONS PAGE;

12. ANY **NON-OWNED CAR** WHILE IT IS:

- a. BEING MAINTAINED OR USED BY ANY **PERSON** WHILE THAT **PERSON** IS EMPLOYED IN OR ENGAGED IN ANY WAY IN A **CAR BUSINESS**; OR
- b. USED IN ANY BUSINESS OR OCCUPATION OTHER THAN A **CAR BUSINESS**. This exclusion (12.b.) does not apply to a *private passenger car*;

13. ANY PART OR EQUIPMENT OF A **COVERED VEHICLE** IF THAT PART OR EQUIPMENT:

- a. FAILS OR IS DEFECTIVE; OR
- b. IS DAMAGED AS A DIRECT RESULT OF:
 - (1) WEAR AND TEAR;
 - (2) FREEZING; OR
 - (3) MECHANICAL, ELECTRICAL, OR ELECTRONIC BREAKDOWN OR MALFUNCTIONOF THAT PART OR EQUIPMENT.

This exclusion does not apply if the *loss* is the result of theft of the **covered vehicle**;

14. ANY PART OR EQUIPMENT:

- a. THAT IS NOT LEGAL FOR USE IN OR ON THE **COVERED VEHICLE** IN THE JURISDICTION WHERE THE **COVERED VEHICLE** IS REGISTERED; OR
- b. THE USE OF WHICH IS NOT LEGAL IN THE JURISDICTION WHERE THE **COVERED VEHICLE**

IS REGISTERED BECAUSE OF HOW OR WHERE THAT PART OR EQUIPMENT IS INSTALLED IN OR ON THE **COVERED VEHICLE**.

However, if there is a legal version of the part or equipment that is necessary for the safe operation of the **covered vehicle**, then *we* will pay the cost that *we* would otherwise have paid to repair the vehicle with the legal version of the part or equipment. *We* will not pay any cost necessary to modify the vehicle for installation of the legal version of the part or equipment;

15. **TIRES**. This exclusion does not apply if:

- a. *loss* is caused by missiles, falling objects, windstorm, hail, fire, explosion, earthquake, water, flood, total or partial theft, malicious mischief, vandalism, riot, civil commotion, or hitting or being hit by a bird or an animal; or
- b. *loss caused by collision* to:
 - (1) another part of the **covered vehicle** causes *loss* to tires; or
 - (2) tires is caused by direct contact with another vehicle;

16. REMOVABLE PRODUCTS USED FOR STORAGE OF AUDIO, VIDEO, OR OTHER DATA, INCLUDING BUT NOT LIMITED TO TAPES, DISCS, AND MEMORY CARDS, NOR IS THERE COVERAGE FOR THE RECONSTRUCTION OF DATA CONTAINED THEREIN;

17. ANY EQUIPMENT USED TO DETECT OR INTERFERE WITH SPEED MEASURING DEVICES;

18. A CAMPER, INCLUDING ITS PARTS AND ITS EQUIPMENT, THAT IS:

- a. DESIGNED TO BE MOUNTED ON A PICKUP TRUCK;
- b. **OWNED BY AN INSURED**; AND
- c. NOT SHOWN ON THE DECLARATIONS PAGE; OR

19. ANY **COVERED VEHICLE** WHILE IT IS:

- a. BEING PREPARED FOR, USED IN PRACTICE FOR, OR OPERATED IN ANY RACING CONTEST, SPEED CONTEST, HILL-CLIMBING CONTEST, JUMPING CONTEST, OR ANY SIMILAR CONTEST; OR
- b. ON A TRACK DESIGNED PRIMARILY FOR RACING OR HIGH-SPEED DRIVING. This exclusion (19.b.) does not apply if the vehicle is being used in connection with an activity other than racing, high-speed driving, or any type of competitive driving.

If Other Physical Damage Coverage or Similar Coverage Applies

1. If the same **loss** or expense is payable under more than one of the physical damage coverages provided by this policy, then only the one coverage that pays the most for that **loss** or expense applies.
2. If any of the physical damage coverages provided by this policy and one or more other policies issued to **you** by **us** apply to the same **loss** or expense, then only one policy applies. **We** will select a policy that pays the most for the **loss** or expense.
3. The physical damage coverages provided by this policy apply as primary coverage for a **loss** to **your car**.

If similar coverage provided by one or more sources other than **us** also applies as primary coverage for the same **loss** or expense, then **we** will pay the proportion of the **loss** or expense payable as primary that the maximum amount that may be paid by **us** bears to the sum of such amount and the limits of all other similar coverage that applies as primary coverage.

4. Except as provided in 3. above, the physical damage coverages provided by this policy apply as excess coverage.

If similar coverage provided by one or more sources other than **us** also applies as excess coverage for the same **loss** or

expense, then **we** will pay the proportion of the **loss** or expense payable as excess that the maximum amount that may be paid by **us** bears to the sum of such amount and the limits of all other similar coverage that applies as excess coverage.

Financed Vehicle

1. If a creditor is shown on the Declarations Page, then any Comprehensive Coverage or Collision Coverage provided by this policy applies to that creditor's interest in **your car**. Coverage for the creditor's interest is only provided for a **loss** that is payable to **you**.

However, if this policy is cancelled or non-renewed, then **we** will provide coverage for the creditor's interest until **we** notify the creditor of the termination of such coverage. This coverage for the creditor's interest is only provided for a **loss** that would have been payable to **you** if this policy had not been cancelled or nonrenewed. The date such termination is effective will be at least 10 days after the date **we** mail or electronically transmit a notice of the termination to the creditor.

2. If **we** pay such creditor, then **we** are entitled to the creditor's right of recovery against **you** to the extent of **our** payment. **Our** right of recovery does not impair the creditor's right to recover the full amount of its claim.

Our Payment Options

1. **Comprehensive Coverage and Collision Coverage**

- a. **We** may, at **our** option, make payment to one or more of the following for **loss** to a **covered vehicle owned by you**:

- (1) **You**;
- (2) The repairer unless directed otherwise by the **insured**; or
- (3) A creditor shown on the Declarations Page, to the extent of its interest.

- b. *We* may make payment to one or more of the following for *loss* to a *covered vehicle* not *owned by you*:
- (1) *You*;
 - (2) The owner of such vehicle;
 - (3) The repairer; or
 - (4) A creditor, to the extent of its interest.
2. **Emergency Road Service Coverage and Car Rental and Travel Expenses Coverage**
We may make payment to one or more of the following:
- a. *You*;
 - b. The *insured* who incurred the expense; or
 - c. Any party that provided the service for which payment is owed unless directed otherwise by the *insured*.

DEATH, DISMEMBERMENT AND LOSS OF SIGHT COVERAGE AND LOSS OF EARNINGS COVERAGE

DEATH, DISMEMBERMENT AND LOSS OF SIGHT COVERAGE

This policy provides Death, Dismemberment and Loss of Sight Coverage if “S” is shown under “SYMBOLS” on the Declarations Page.

Additional Definition

Insured means a *person* whose name is shown under “Death, Dismemberment and Loss of Sight Coverage – Persons Insured” on the Declarations Page.

Insuring Agreement

We will pay the highest applicable benefit shown in the following Death, Dismemberment and Loss of Sight Benefits Schedules if an *insured*:

1. dies; or
2. suffers dismemberment or permanent loss of sight, as described in the schedule

as the direct result of an accident that involves the use of a land motor vehicle or any type of trailer as a vehicle and not due to any other cause.

The *insured* must be *occupying* or be struck as a *pedestrian* by a land motor vehicle or any type of trailer at the time of the accident. The death, dismemberment, or permanent loss of sight must occur within 90 days immediately following the date of the accident.

Benefit

The applicable benefit shown in the schedule is the most *we* will pay for any one *insured* in any one accident. Any benefit paid or payable for dismemberment or permanent loss of sight reduces the death benefit.

The benefits shown in the schedules are doubled for an *insured* who at the time of the accident was *occupying* a *private passenger car* and using a seat belt in the manner recommended by the vehicle’s manufacturer.

Death, Dismemberment and Loss of Sight Benefits Schedules

If the amount shown on the Declarations Page for the <i>insured</i> is \$5,000, then <i>we</i> will pay the applicable benefit shown below for death or for the described dismemberment or permanent loss of sight:	
Death	\$5,000
Loss of both hands; both feet; all sight of both eyes; one hand and one foot; or one hand or one foot and all sight of one eye	\$5,000
Loss of one hand or one foot; or all sight of one eye	\$2,500
Loss of the thumb and a finger on one hand; or any three fingers	\$1,500
Loss of any two fingers	\$1,000

The hand must be cut off through or above the wrist. The foot must be cut off through or above the ankle. The whole thumb or finger must be cut off.	
If the amount shown on the Declarations Page for the <i>insured</i> is \$10,000, then <i>we</i> will pay the applicable benefit shown below for death or for the described dismemberment or permanent loss of sight:	
Death	\$10,000
Loss of both hands; both feet; all sight of both eyes; one hand and one foot; or one hand or one foot and all sight of one eye	\$10,000
Loss of one hand or one foot; or all sight of one eye	\$5,000
Loss of the thumb and a finger on one hand; or any three fingers	\$3,000
Loss of any two fingers	\$2,000
The hand must be cut off through or above the wrist. The foot must be cut off through or above the ankle. The whole thumb or finger must be cut off.	

LOSS OF EARNINGS COVERAGE

This policy provides Loss of Earnings Coverage if "Z" is shown under "SYMBOLS" on the Declarations Page.

Additional Definitions

Insured means a *person* whose name is shown under "Loss of Earnings Coverage – Persons Insured" on the Declarations Page.

Total Disability means the *insured's* inability to work, either full or part time, in his or her occupation or any other similar occupation for which he or she is reasonably fitted by education, training, or experience.

Weekly Earnings means 85% of all earnings for the *insured's* services before any deductions. When *weekly earnings* cannot be determined on a weekly basis an average will be used. The average is 85% of the total earnings

for the 52 weeks just prior to the accident divided by 52.

Insuring Agreement

We will pay the *insured* his or her loss of *weekly earnings*, which occur while the *insured* is living, due to continuous *total disability* that:

1. is the direct result of *bodily injury* caused by an accident that involves the use of a land motor vehicle or any type of trailer as a vehicle and not due to any other cause. At the time of the accident, the *insured* must be *occupying* or be struck as a *pedestrian* by a land motor vehicle or any type of trailer; and
2. starts within 20 days immediately following the date of the accident and lasts for a period of at least 30 consecutive days. *We* will not pay for the first seven days of the 30 day period.

Limit

The most *we* will pay any one *insured* is:

1. \$250 for each full workweek of *total disability*; and
2. a pro rata portion of \$250 for less than a full workweek of *total disability*.

Subject to the workweek limit, the most *we* will pay any one *insured* for all loss of *weekly earnings* due to any one accident is \$15,000.

We will pay once every two weeks the *insured's* loss of *weekly earnings* owed.

Exclusions – Death, Dismemberment and Loss of Sight Coverage and Loss of Earnings Coverage

DEATH, DISMEMBERMENT AND LOSS OF SIGHT COVERAGE AND LOSS OF EARNINGS COVERAGE DO NOT APPLY TO AN *INSURED*:

1. WHILE IN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT IN A *CAR BUSINESS*;
2. WHILE *OCCUPYING*, LOADING, OR UNLOADING:

- a. AN EMERGENCY VEHICLE IN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT;
- b. A VEHICLE, OTHER THAN AN EMERGENCY VEHICLE, WHILE USED IN THE:
 - (1) **INSURED'S** BUSINESS; OR
 - (2) COURSE AND SCOPE OF HIS OR HER EMPLOYMENT IN OTHER THAN A **CAR BUSINESS**.

This exclusion (2.b.) does not apply if the vehicle is a **private passenger car**;
- c. A MILITARY VEHICLE; OR
- d. A VEHICLE WHILE IT IS:
 - (1) BEING PREPARED FOR, USED IN PRACTICE FOR, OR OPERATED IN ANY RACING CONTEST, SPEED CONTEST, HILL-CLIMBING CONTEST, JUMPING CONTEST, OR ANY SIMILAR CONTEST; OR
 - (2) ON A TRACK DESIGNED PRIMARILY FOR RACING OR HIGH-SPEED DRIVING. This exclusion (2.d.(2)) does not apply if the vehicle is being used in connection with an activity other than racing, high-speed driving, or any type of competitive driving;
- 3. WHILE **OCCUPYING**, LOADING, UNLOADING, OR WHO IS STRUCK AS A **PEDESTRIAN** BY:
 - a. A MOTOR VEHICLE THAT RUNS ON RAILS OR CRAWLER-TREADS;
 - b. A MOTOR VEHICLE THAT IS DESIGNED FOR USE PRIMARILY OFF PUBLIC ROADS WHILE OFF PUBLIC ROADS; OR
 - c. A MOTOR VEHICLE OR ANY TYPE OF TRAILER, EITHER OF WHICH IS LOCATED FOR USE AS A DWELLING OR OTHER PREMISES; OR
- 4. FOR DEATH, DISMEMBERMENT, LOSS OF SIGHT, OR **TOTAL DISABILITY** THAT RESULTS FROM:
 - a. WAR OF ANY KIND;
 - b. NUCLEAR REACTION, RADIATION OR RADIOACTIVE CONTAMINATION FROM ANY SOURCE, OR THE ACCIDENTAL OR INTENTIONAL DETONATION OF, OR RELEASE OF RADIATION FROM, ANY NUCLEAR OR RADIOACTIVE DEVICE;
 - c. THE DISCHARGE OF A FIREARM;
 - d. EXPOSURE TO **FUNGI**;
 - e. SUICIDE OR ATTEMPTED SUICIDE REGARDLESS OF WHETHER THE **INSURED** WAS SANE OR INSANE; OR
 - f. DISEASE except pus-forming infection due to **bodily injury** sustained in the accident.

Our Payment Options – Death, Dismemberment and Loss of Sight Coverage and Loss of Earnings Coverage

We may, at **our** option, make payment to one or more of the following:

- 1. The **insured**;
- 2. The **insured's** surviving spouse;
- 3. A parent or guardian of the **insured**, if the **insured** is a minor or an incompetent **person**; or
- 4. A **person** or legal entity authorized by law to receive such payment unless directed otherwise by the **insured**.

INSURED'S DUTIES

1. Notice to Us of an Accident or Loss

The *insured* must give *us* or one of *our* agents notice of the accident or *loss* as soon as reasonably possible. The notice must give *us*:

- a. *your* name;
- b. the names and addresses of all *persons* involved in the accident or *loss*;
- c. the hour, date, place, and facts of the accident or *loss*; and
- d. the names and addresses of witnesses to the accident or *loss*.

2. Notice to Us of a Claim or Lawsuit

- a. If a claim is made against an *insured*, then that *insured* must immediately send *us* every demand, notice, and claim received.
- b. If a lawsuit is filed against an *insured*, then that *insured* must immediately send *us* every summons and legal process received.

3. Insured's Duty to Cooperate With Us

- a. The *insured* must cooperate with *us* and, when asked, assist *us* in:
 - (1) making settlements;
 - (2) securing and giving evidence; and
 - (3) attending, and getting witnesses to attend, depositions, hearings, and trials.
- b. The *insured* must not, except at his or her own cost, voluntarily:
 - (1) make any payment to others; or
 - (2) assume any obligation to others unless authorized by the terms of this policy.
- c. Any *person* or legal entity making claim under this policy must, when *we* require, give *us* proof of loss on forms *we* furnish.

4. Questioning Under Oath

Under:

- a. Liability Coverage, each *insured*;
- b. Personal Injury Protection Coverage, Medical Payments Coverage, Uninsured/Underinsured Motorists Coverage, Death, Dismemberment and Loss of Sight Coverage, or Loss of Earnings Coverage, each *insured*, and any other *person* or legal entity making claim or seeking payment; and
- c. Physical Damage Coverages, each *insured* or owner of a *covered vehicle*, or any other *person* or legal entity making claim or seeking payment;

must, at *our* option, submit to an examination under oath, provide a statement under oath, or do both, as reasonably often as *we* require. Such *person* or legal entity must answer questions under oath, asked by anyone *we* name, and sign copies of the answers. *We* may require each *person* or legal entity answering questions under oath to answer the questions with only that *person's* or legal entity's legal representative, *our* representatives, any *person* or *persons* designated by *us* to record the questions and answers, and no other *person* present. However, a parent or guardian of the *insured*, if the *insured* is a minor, may also be present.

5. Other Duties Under the Physical Damage Coverages

When there is a *loss*, *you* or the owner of the *covered vehicle* must:

- a. protect the *covered vehicle* from additional damage. *We* will pay any reasonable expense incurred to do so that is reported to *us*;
- b. make a prompt report to the police when the *loss* is the result of theft;
- c. allow *us* to:
 - (1) inspect any damaged property;

- (a) before its repair or disposal; and
 - (b) during its repair;
- (2) test any part or equipment before that part or equipment is removed or repaired; and
- (3) move the *covered vehicle* at *our* expense in order to conduct such inspection or testing;
- d. provide *us* all pertinent:
 - (1) records;
 - (2) receipts;
 - (3) invoices; and
 - (4) authorizationsthat *we* request and allow *us* to make copies; and
- e. not abandon the *covered vehicle* to *us*.

6. **Other Duties Under Personal Injury Protection Coverage, Medical Payments Coverage, Uninsured/Underinsured Motorists Coverage, Death, Dismemberment and Loss of Sight Coverage, and Loss of Earnings Coverage**

A *person* making claim under:

- a. Personal Injury Protection Coverage, Medical Payments Coverage, Uninsured/Underinsured Motorists Coverage, Death, Dismemberment and Loss of Sight Coverage, or Loss of Earnings Coverage must:
 - (1) notify *us* of the claim and give *us* all the details about the death, injury, treatment, and other information that *we* may need as soon as reasonably possible after the injured *insured* is first examined or treated for the injury. If the *insured* is unable to give *us* notice, then any other *person* may give *us* the required notice;
 - (2) be examined as reasonably often as *we* may require by physicians chosen and paid by *us*. A copy of

- the report will be sent to the *person* upon written request;
- (3) provide written authorization for *us* to obtain:
 - (a) medical records which are reasonably related to the *bodily injury*; and
 - (b) any other pertinent information necessary to substantiate the claim, including:
 - (i) medical bills; and
 - (ii) wage, salary, and employment information.

If an injured *insured* is a minor, unable to act, or dead, then his or her legal representative must provide *us* with the written authorization.

If the holder of the information refuses to provide it to *us* despite the authorization, then at *our* request the *person* making claim or his or her legal representative must obtain the information and promptly provide it to *us*; and

- (4) allow *us* to inspect the vehicle that the *insured occupied* in the accident;
- b. Uninsured/Underinsured Motorists Coverage must:
 - (1) promptly report an accident, involving a motor vehicle whose owner and driver remain unknown, to the police and to *us*;
 - (2) send *us* immediately a copy of all lawsuit papers if the *insured* files a lawsuit against the party liable for the accident; and
 - (3) when there is *property damage*:
 - (a) protect the damaged property from additional damage. *We* will pay any reasonable expense incurred to do so that is reported to *us*;

- (b) allow *us* to:
 - (i) inspect any damaged property:
 - 1) before its repair or disposal; and
 - 2) during its repair
 - (ii) test any part or equipment before that part or equipment is removed or repaired; and
 - (iii) move the damaged property at *our* expense in order to conduct such inspection or testing;
- (c) provide *us* all pertinent:
 - (i) records;
 - (ii) receipts;
 - (iii) invoices; and
 - (iv) authorizations that *we* request and allow *us* to make copies; and
 - (d) not abandon the damaged property to *us*; and
- c. Loss of Earnings Coverage must:
 - (1) make a claim under this policy;
 - (2) report to *us* when that *person* has a *total disability*; and
 - (3) provide proof of continued *total disability* when *we* ask for it.

GENERAL TERMS

1. When Coverage Applies

The coverages provided by this policy are shown on the Declarations Page and apply to accidents and *losses* that occur during the policy period. The policy period is shown on the Declarations Page and is for successive periods of six months each for which the renewal premium is paid. The policy period begins and ends at 12:01 AM Standard Time at the address shown on the Declarations Page.

2. Where Coverage Applies

The coverages provided by this policy are shown on the Declarations Page and apply to accidents and *losses* that occur:

- a. in the United States of America and its territories and possessions;
- b. in Canada; and
- c. while a vehicle for which coverage is provided by this policy is being shipped between the ports of the United States of America, its territories, its possessions, and Canada.

Death, Dismemberment and Loss of Sight Coverage and Loss of Earnings Coverage apply anywhere in the world.

3. Limited Coverage in Mexico

WARNING

READ THIS PROVISION

CAREFULLY!

Auto accidents in Mexico are subject to the laws of Mexico only — NOT the laws of the United States of America. Unlike the United States, the Republic of Mexico considers an auto accident a **CRIMINAL OFFENSE** as well as a civil matter.

In some cases, the coverage provided by this provision may NOT be recognized by Mexican authorities and the company may not be allowed to implement this coverage at all in Mexico. You should consider purchasing auto coverage from a licensed Mexican Insurance Company before driving in Mexico.

Subject to the above paragraph, the following coverages apply in Mexico, but only for accidents and *losses* that occur in Mexico within 50 miles of the United States of

America border and only for *insureds* as defined under each of the following coverages:

a. **Liability Coverage**

For claims brought against an *insured* in Mexico, the **Supplementary Payments** provision of this policy's Liability Coverage is changed to read:

We may, in addition to the damages described in item 1. of the **Insuring Agreement** of this policy's Liability Coverage, pay or reimburse, at *our* option, reasonable attorney fees for an attorney licensed in Mexico to appear for and provide advice to *insureds* as defined under this policy's Liability Coverage. The amount of such attorney fees incurred by an *insured* must be reported to *us* before *we* will make payment. These payments are not subject to this policy's Liability Coverage limits.

b. **Medical Payments Coverage**

c. **Physical Damage Coverages**

Any amount payable for the repair or replacement of the *covered vehicle* under the **Limits and Loss Settlement – Comprehensive Coverage and Collision Coverage** provision of this policy will be limited to the cost to repair or replace the *covered vehicle* in the United States of America.

WE HAVE NO DUTY TO PROVIDE A DEFENSE FOR *YOU* OR ANY OTHER *INSURED* IN ANY CRIMINAL, CIVIL, OR OTHER ACTION.

WE HAVE NO DUTY TO PAY ANY CLAIM OR COST THAT WOULD NOT BE PAYABLE UNDER THIS POLICY IF THE ACCIDENT OR *LOSS* HAD OCCURRED IN THE STATE OF TEXAS IN THE UNITED STATES OF AMERICA.

All other policy provisions not in conflict with the provisions in this **Limited Coverage in Mexico** provision of this policy apply.

If Other Coverage Applies

Any coverage provided by this **Limited Coverage in Mexico** provision is excess over any other applicable insurance.

Legal Action Against Us

Any legal action against *us* arising out of an accident or *loss* occurring in Mexico must be brought in a court that has jurisdiction in the state of Texas in the United States of America.

Additional Exclusions

We do not provide any coverage:

- a. if *your car* is not principally garaged and used in the United States of America; and
- b. to any *person* who does not live in the United States of America.

4. **Newly Owned or Newly Leased Car**

If:

- a. *you* want to insure a *private passenger car* newly *owned by you* with the *State Farm Companies* after that *private passenger car* ceases to be a *newly acquired car*, then *you* must:

- (1) request *we* replace a *car* currently shown on the Declarations Page of this policy with the *private passenger car* newly *owned by you* and pay *us* any added amount due. If *you* make such request while this policy is in force and:

- (a) before the *private passenger car* newly *owned by you* ceases to be a *newly acquired car*, then that *private passenger car* newly *owned by you* will be insured by this policy as *your car* beginning on the date the *private passenger car* newly *owned by you* is delivered to *you*. The added amount due will be calculated based on that date; or

- (b) after the *private passenger car* newly *owned by you* ceases to be a *newly acquired car*, then that *private passenger car* newly *owned by you* will be insured by this policy as *your car* beginning on the date and time *you* make the request. The added amount due will be calculated based on that date;
 - (2) ask *us*, on or before the 20th day after *you* become owner or lessee, to add the *private passenger car* to *your* policy and pay *us* any amount due. If *you* ask *us* to add the *car* after the 20th day, then coverage will be provided only if both the applicant and the vehicle are eligible for coverage. The added amount due will be calculated based on the date the *car* is added to the policy; or
 - (3) apply to the *State Farm Companies* for a separate policy to insure the *private passenger car* newly *owned by you*. Such policy will be issued only if both the applicant and the vehicle are eligible for coverage at the time of the application.
 - b. a *resident relative* wants to insure a *private passenger car* newly *owned by* the *resident relative* with the *State Farm Companies* after that *private passenger car* ceases to be a *newly acquired car*, then the *resident relative* must apply to the *State Farm Companies* for a separate policy to insure the *private passenger car* newly *owned by* the *resident relative*. Such policy will be issued only if both the applicant and the vehicle are eligible for coverage at the time of the application.
5. **Changes to This Policy**
- a. **Changes in Policy Provisions**
 - (1) Subject to 5.a.(2) below, this policy may only be changed by issuing a revised policy booklet, a revised Declarations Page, or an endorsement.
 - b. **Change of Interest**
 - (2) If *we* change this policy to give broader coverage without an additional premium charge, then *we* will give *you* the broader coverage as of the date *we* make the change effective in the state of Texas without issuing a revised policy booklet, a revised Declarations Page, or an endorsement.
 - c. **Joint and Individual Interests**

If *you* consists of more than one *person* or entity, then each acts for all to change or cancel the policy.
 - d. **Change of Policy Address**

We may change the named insured's policy address as shown on the Declarations Page and in *our* records to

the most recent address provided to **us** by:

- (1) **you**; or
- (2) the United States Postal Service.

6. Premium

- a. Unless as otherwise provided by an alternative payment plan in effect with the **State Farm Companies** with respect to the premium for this policy, the premium is due and payable in full on or before the first day of the policy period shown on the most recently issued Declarations Page or Auto Renewal.
- b. The renewal premium for this policy will be based upon the rates in effect, the coverages carried, the applicable limits, deductibles, and other elements that affect the premium that apply at the time of renewal.
- c. The premium for this policy may vary based upon:
 - (1) the purchase of other products or services from the **State Farm Companies**;
 - (2) the purchase of products or services from a legal entity that has entered into an agreement or contract with the **State Farm Companies**. The **State Farm Companies** do not warrant the merchantability, fitness, or quality of any product or service offered or provided by that legal entity; or
 - (3) an agreement, concerning the insurance provided by this policy, that the **State Farm Companies** has with a legal entity of which **you** are a member, employee, subscriber, licensee, or franchisee.
- d. The premium for this policy is based upon information **we** have received from **you** or other sources. **You** must inform **us** if any information regarding the following is incorrect or incomplete, or

changes during the policy period, and **you** must answer questions **we** ask regarding the following:

- (1) **Your car**, or its use, including annual mileage;
- (2) The **persons** who regularly drive **your car**, including newly licensed members of **your** family;
- (3) **Your** marital status; or
- (4) The location where **your car** is primarily garaged.

If the above information or any other information used to determine the premium is incorrect, incomplete, changes during the policy period, or is not provided to **us** when **we** ask, then **we** may decrease or increase the premium during the policy period. If **we** decrease the premium during the policy period, then **we** will provide a refund or a credit in the amount of the decrease. If **we** increase the premium during the policy period, then **you** must pay the amount of the increase.

7. Renewal

We agree to renew this policy for the next policy period upon payment of the renewal premium when due, unless **we** mail or deliver a nonrenewal notice or a cancellation notice as set forth in 8. and 9. below.

8. Nonrenewal

If **we** decide not to renew this policy, then, at least 30 days before the end of the current policy period, **we** will mail or deliver a nonrenewal notice to the most recent policy address that **we** have on record for the named insured who is shown on the Declarations Page.

If **we** fail to provide notice of nonrenewal at least 30 days before the end of the current policy period, then **we** will renew this policy, at **your** request, at the expiration of the current policy period. Notwithstanding **our** failure to provide notice of nonrenewal at least 30 days before the end of the current

policy period, this policy will terminate on the effective date of any replacement or succeeding policy issued to **you** by another insurance carrier.

We will only nonrenew this policy on an annual anniversary of its original effective date.

We will not nonrenew this policy based solely on:

- a. the age of **you** or any **resident relative**; or
- b. the fact that **you** are an elected official.

9. **Cancellation**

a. **How You May Cancel**

You may cancel this policy by providing to **us** advance notice of the date cancellation is effective. **We** may confirm the cancellation in writing.

b. **How and When We May Cancel**

We may cancel this policy by mailing or delivering a written notice to the most recent policy address that **we** have on record for the named insured who is shown on the Declarations Page. The notice will provide the date cancellation is effective, which will be at least 10 days after the date **we** mail or deliver the cancellation notice.

After this policy has been in force for more than 59 days, **we** will not cancel this policy unless:

- (1) **you** submit a fraudulent claim;
- (2) the premium is not paid when due; or
- (3) the driver's license or the motor vehicle registration of:
 - (a) **you**;
 - (b) any **resident relative**; or
 - (c) any other **person** who usually drives **your car**

has been suspended or revoked. **We** will not cancel this policy if **you** agree, by the attachment of an

endorsement naming such **person**, that **we** shall not be liable and no liability or obligation of any kind shall attach to **us** for **bodily injury, loss** or damage under any of the coverages of this policy while any motor vehicle is operated by the **person** named.

We will not cancel this policy based solely on the fact that **you** are an elected official.

c. **Return of Unearned Premium**

Premium will be earned on a pro rata basis.

Any unearned premium will be returned no later than the 15th **business day** after the date cancellation is effective.

10. **Assignment**

No assignment of benefits, except as provided for in **Our Payment Options** of Personal Injury Protection Coverage or Medical Payments Coverage, or other transfer of rights is binding upon **us** unless approved by **us**.

11. **Bankruptcy or Insolvency of the Insured**

Bankruptcy or insolvency of the **insured** or his or her estate will not relieve **us** of **our** obligations under this policy.

12. **Concealment or Fraud**

There is no coverage under this policy if **you** or any other **person** insured under this policy has made false statements with the intent to conceal or misrepresent any material fact or circumstance in connection with any claim under this policy.

13. **Our Right to Recover Our Payments**

Personal Injury Protection Coverage, Death, Dismemberment and Loss of Sight Coverage and Loss of Earnings Coverage payments are not recoverable by **us**. Under all other coverages, the following apply:

a. **Subrogation**

If *we* are obligated under this policy to make payment to or for a *person* or legal entity who has a legal right to collect from another *person* or legal entity, then *we* will be subrogated to that right to the extent of *our* payment. This does not apply under the Physical Damage Coverages to a *person* using a *covered vehicle* within the scope of *your* consent.

The *person* or legal entity to or for whom *we* make payment must help *us* recover *our* payments by:

- (1) doing nothing to impair that legal right;
- (2) executing any documents *we* may need to assert that legal right; and
- (3) taking legal action through *our* representatives when *we* ask.

A release of an insurer of an underinsured motor vehicle does not prejudice *our* rights.

b. **Reimbursement**

If *we* make payment under this policy and the *person* or legal entity to or for whom *we* make payment recovers or has recovered from another *person* or legal entity, then the *person* or legal entity to or for whom *we* make payment must:

- (1) hold in trust for *us* the proceeds of any recovery; and
- (2) reimburse *us* to the extent of *our* payment.

However, if *we* have consented in writing to a settlement under the Uninsured/Underinsured Motorists Coverage, then *we* will not claim the amount recovered from an insurer of an underinsured motor vehicle.

14. **Legal Action Against Us**

Legal action may not be brought against *us* until there has been full compliance with

all the provisions of this policy. In addition, legal action may only be brought against *us* regarding:

- a. Liability Coverage after the amount of damages an *insured* is legally liable to pay has been finally determined by:
 - (1) judgment after an actual trial, and any appeals of that judgment if any appeals are taken; or
 - (2) agreement between the claimant and *us*.
- b. Medical Payments Coverage if the legal action relating to this coverage is brought against *us* within two years and one day after the cause of action first accrues.
- c. Uninsured/Underinsured Motorists Coverage if the *insured* or that *insured's* legal representative:
 - (1) presents an Uninsured/Underinsured Motorists Coverage claim to *us*; and
 - (2) files a lawsuit in accordance with the **Deciding Fault and Amount** provision.

Except as provided in c.(2) above, no other legal action may be brought against *us* relating to Uninsured/Underinsured Motorists Coverage for any other causes of action that arise out of or are related to this coverage until there has been full compliance with the provisions titled **Consent to Settlement** and **Deciding Fault and Amount**. Any such other legal action must be brought against *us* within two years and one day after the cause of action first accrues.

- d. Physical Damage Coverages if the legal action relating to these coverages is brought against *us* within two years and one day after the cause of action first accrues.

15. Choice of Law

Without regard to choice of law rules, the law of the state of:

- a. Texas will control, except as provided in b. below, in the event of any disagreement as to the interpretation and application of any provision in this policy; and
- b. Illinois will control in the event of any disagreement as to the interpretation and application of this policy's:
 - (1) Mutual Conditions provision found on the most recently issued Declarations Page, if this policy was issued by the State Farm Mutual Automobile Insurance Company; or
 - (2) Participating Policy provision found on the most recently issued Declarations Page, if this policy was issued by any subsidiary or affiliate of the State Farm Mutual Automobile Insurance Company.

16. Severability

If any provision of this policy is held invalid or unenforceable by a court that has jurisdiction, then:

- a. such provision will remain in full force to the extent not held invalid or unenforceable; and
- b. all other provisions of this policy will remain valid and enforceable.

17. Electronic Delivery

With **your** consent, **we** may electronically deliver any document or notice, including a notice to renew, nonrenew, or cancel, instead of mailing it or delivering it by other means. Proof of transmission will be sufficient proof of notice.

18. Notice of a Claim

- a. Within 15 days after **we** receive **your** written notice of claim, **we** shall:

- (1) acknowledge receipt of the claim. If **our** acknowledgement of the claim is not in writing, **we** will keep a record of the date, manner, and content of **our** acknowledgement.
- (2) begin any investigation of the claim.
- (3) request from **you** all items, statements, and forms **we** reasonably believe, at that time, will be required from **you**.

We may request more information, if during the investigation of the claim such additional requests are necessary.

- b. After **we** receive the information required to secure final proof of loss, **we** must notify **you** in writing whether the claim will be accepted or rejected or whether additional time is needed:

- (1) within 15 **business days**; or
- (2) within 30 days if **we** have a reasonable basis to believe the loss resulted from arson.

- c. If **we** do not accept **your** claim, **we** must:

- (1) give the reasons for rejecting **your** claim, or
- (2) give the reasons **we** need additional time to process **your** claim. **We** shall accept or reject **your** claim no later than 45 days after the date **we** request additional time.

- d. In the event of a weather-related catastrophe or major natural disaster, as defined by the Texas Department of Insurance, the claim-handling deadlines as stated above are extended for an additional 15 days.

e. Loss Payment

- (1) If **we** notify **you** that **we** will pay **your** claim, or part of **your** claim, **we** must pay within 5 **business days** after **we** notify **you**.
- (2) If payment of **your** claim, or part of **your** claim, is conditioned upon the performance of an act by **you**, **we** must pay within 5 **business days** after the date the act is performed.

f. Notice of Settlement of Liability Claim

- (1) **We** will notify **you** in writing of any initial offer to settle a claim against **you** under the liability section of this policy. **We** will give **you** notice within 10 days after the date the offer is made.
- (2) **We** will notify **you** in writing of any settlement of a claim against **you** under the liability section of this policy. **We** will give **you** notice within 30 days after the date of the settlement.

CAUSE NO. 198100313719

DEER PARK PAINT & BODY
PLAINTIFF

VS.

STATE FARM AUTOMOBILE
INSURANCE COMPANY
DEFENDANT

§ IN THE JUSTICE COURT
§
§
§
§ PRECINCT 1, PLACE 8
§
§
§
§ HARRIS COUNTY, TEXAS

DEFENDANT'S REQUEST FOR DISCLOSURE TO PLAINTIFF

TO THE HONORABLE JUDGE OF SAID COURT:

To: Deer Park Paint and Body by and through Larry Cernosek, 4527 Red Bluff Road, Pasadena, Texas 75503.

COMES NOW Defendant in the above-styled and numbered cause, and pursuant to Rule 500.9, Texas Rules of Civil Procedure, serves the following Request for Disclosure to Deer Park Paint & Body for response.

Respectfully submitted,

/s/ Michael P. Hupf

Michael P. Hupf
State Bar No. 240102799

BRACKETT & ELLIS,
A Professional Corporation
100 Main Place
Fort Worth, Texas 76102-3090
817.338.1700
817.870.2265 - fax
bcampbell@belaw.com

ATTORNEYS FOR DEFENDANT
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on August ____, 2019, a true and correct copy of the above and foregoing document has been served upon all counsel of record, in accordance with the Texas Rules of Civil Procedure.

/s/ Michael P. Hupf

Michael P. Hupf

REQUEST FOR DISCLOSURE

REQUEST FOR DISCLOSURE (a): The correct names of the parties to the lawsuit.

RESPONSE: They are correct in the original petition.

REQUEST FOR DISCLOSURE (b): The name, address, and telephone number of any potential parties.

RESPONSE: None other than those in the original petition!

REQUEST FOR DISCLOSURE (c): The legal theories and, in general, the factual bases of the responding party's claims or defenses.

RESPONSE: Texas Department of Insurance, Consumer Bill of Rights, The 1963 Consent Decree, Commissioner's Bulletin # B-0031-10, DEG Inquiry 12043, the Assignment of Proceeds, the manufacturers recommendations of how a vehicle is to be repaired after an accident, estimates showing the rates paid by State Farm and other insurance companies and common sense.

REQUEST FOR DISCLOSURE (d): The amount and any method of calculating economic damages.

RESPONSE: The amount was included in the original petition.

REQUEST FOR DISCLOSURE (e): The name, address and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

RESPONSE: Larry Cernosek, 4527 Red Bluff, Pasadena, TX 77503, 281-930-1539. Forty-four years of repairing vehicles after an accident.

REQUEST FOR DISCLOSURE (f): For any testifying expert:

- (1) The expert's name, address and telephone number; Larry Cernosek, 4527 Red Bluff, Pasadena, TX 77503, 281-930-1539.
- (2) The subject matter on which the expert will testify;
- (3) The general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by or otherwise subject to the control of the responding party, documents reflecting such information; and

The proper and safe repair of a vehicle after an accident.

- (4) If the expert is retained by, employed by or otherwise subject to the control of the responding party: does not apply.
- (A) All documents, tangible things, reports, models or data compilations that have been provided to, reviewed by or prepared by or for the expert in anticipation of the expert's testimony; and
- (B) The expert's current resume and bibliography.

RESPONSE: Forty-four years of training, repairing vehicles, and supporting legislation nationally and locally.

REQUEST FOR DISCLOSURE (g): Any discoverable indemnity and insuring agreements.

RESPONSE: None at this time.

REQUEST FOR DISCLOSURE (h): Any discoverable settlement agreements.

RESPONSE: None at this time.

REQUEST FOR DISCLOSURE (i): Any discoverable witness statements.

RESPONSE: None at this time.

REQUEST FOR DISCLOSURE (j): All medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills.

RESPONSE: N/A

REQUEST FOR DISCLOSURE (k): All medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

RESPONSE: N/A

REQUEST FOR DISCLOSURE (l): The name, address and telephone number of any person who may be designated as a responsible third party.

RESPONSE: None at this time.

