

# MOTOR VEHICLE POLICY CONDITIONS

To be attached and forming part of Policy #: \_\_\_\_\_

*In consideration of the prior payment of the agreed premium mentioned in the Policy Certificate the Company will indemnify you in terms of the Insurance Policy in respect of the Insured Events occurring during the Period of Insurance and except where expressly varied any alterations to the Insurance Policy whether by means of an Endorsement or otherwise shall be subject to the terms, exceptions and conditions contained herein or endorsed hereon.*

*Any statement made by you or on your behalf and any documents submitted to us for the purpose of assessing the risk are the basis of and form part of the Insurance Policy.*

## **Section 1: General Terms and Conditions**

### **1) Definitions**

#### **1.1 Accident Handler**

The Company's intermediary presenting at the scene where damage(s) have occurred following a road traffic collision or where other damages or mishaps have happened involving an Insured Vehicle and/or Object, with the task of documenting the scenario and damage(s), interviewing of parties and witnesses and when possible providing a preliminary (non-binding) assessment of which party is to blame.

#### **1.2 Commercial Vehicle**

A Commercial Vehicle shall mean a motor vehicle that is either registered in the name of a company (irrespective its legal form), or, if registered in the name of a private person, and which is not being used (exclusively) for private purposes but is (also) being used for business purposes, such as, but not limited to, a bus, taxi or any such commercial form of passenger transport, whether against a fee or complimentary, a (semi) hire, loan, lease or instruction vehicle, a transportation van, a delivery car or a director's car.

#### **1.3 Company**

The New India Assurance Company Ltd.

#### **1.4 Covered Loss**

An event for which the Company will indemnify the Person Insured.

#### **1.5 Deductible**

The amount a Policyholder or Person Insured will have to pay towards any claim.

#### **1.6 Endorsement**

An amendment to the wording of the Insurance Policy noting a change in the details, terms or conditions.

#### **1.7 Geographical Area**

Unless explicitly otherwise agreed upon in writing and beforehand, the Insurance Policy is only effective in ARUBA and does not provide coverage for damages, Losses or injuries sustained with the involvement of the Insured Vehicle and/or Object outside ARUBA.

#### **1.8 Hit & Run**

Damage caused by a vehicle whose driver cannot be identified and has fled the scene of the collision to be supported by a formal police report, whereby notice is being given to the police directly upon the establishing of the damage.

#### **1.9 Insured Catalogue Value**

The value mentioned in the Policy Certificate of the Insured Vehicle and/or Object at the time of taking out the Insurance Policy.

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### **1.10 Insured Event**

An accidental, unexpected or unforeseen event specifically mentioned in the Policy Certificate as covered under this Insurance Policy for which premium is received by the Company.

### **1.11 Insurance Policy**

The contract of insurance between the Company and the Policyholder effected based on statements made by the Policyholder or on his or her behalf and any documents submitted to the Company for the purpose of assessing the risk, under the terms as defined by means of the Policy Certificate, these general and special Policy Conditions and any other Endorsements agreed upon.

### **1.12 Joyriding**

The driving of a vehicle without the explicit permission of the policyholder and without the intention to steal or keep it, to be supported by a formal police report, whereby notice is being given to the police directly upon the establishing of the joyriding.

### **1.12 Loss**

Damage suffered by a person or company directly or indirectly caused by, resulting from or in connection with any event for which the Company could be liable based on the insured risk and to the maximum of the Sum Insured. This includes personal damages (Loss due to injury or adverse health consequences, whether or not resulting in death), immaterial damages (compensation for the disadvantage and/or negative influence on a person's wellbeing) and material damages (Loss due to property being damaged, destroyed or untraceable, any legal liability, cost or expense of whatsoever nature, including those of harm reduction).

### **1.13 Market Value**

The cost of replacing the vehicle and/or object with one of the same make, model and similar age and condition at the time of the accident or Loss.

### **1.14 New Catalogue Value**

The list price of a new vehicle of same make and type prevailing on the date of Loss. If no such list price is available, then the last known list price of such a vehicle will be taken into account. However, this price shall not exceed 125% of the Insured Catalogue Value.

### **1.15 Occurrence**

An accidental, unexpected or unforeseen event or circumstances resulting in a Loss.

### **1.16 Period of Insurance**

The period of time covered by the Insurance Policy, as shown in the Policy Certificate, and any further period that the Company will agree to in writing.

### **1.17 Persons Insured**

The Policyholder named in the Policy Certificate. The Insurance Policy in regard to Third Party Liability is extended in accordance with the provisions and conditions herein to cover also those whose liability is required to be covered in accordance with the provisions of the National Ordinance on Motor Vehicles Liability Insurance, such as the person who owns, possesses, keeps or, while having a valid driving license, drives<sup>1</sup> the Insured Vehicle, as well as the passengers in the vehicle, provided that he or she fulfils and complies with the Terms and Conditions of this policy and obeys it as if he or she was the insured him- or herself.

### **1.18 Policy Certificate**

The document, forming part of the Insurance Policy and providing evidence thereof, principally stating the commencement and expiry dates, the name of the Policyholder, description of the Insured Vehicle(s) and/or Object(s), the risk and Sum Insured and the amount of premium.

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<sup>1</sup> With either permission of the owner of the vehicle or the person who, due to the owner's carelessness, could take possession of the vehicle.

### **1.19 Policy Conditions**

The terms as defined by means of the Policy Certificate, the general and special Policy Conditions and any other Endorsements agreed upon.

### **1.20 Policyholder**

The person with whom the insurance is concluded and whose name appears as such in the Policy Certificate.

### **1.21 Private Vehicle**

A Private Vehicle shall mean a motor vehicle exclusively used for private purposes by the person(s) insured, therefore excluding the use as a bus, taxi or any such commercial form of passenger transport, whether against a fee or complimentary, nor as a (semi) hire, loan, lease or instruction vehicle.

### **1.22 Sum Insured**

The limit of liability of the Company under the Insurance Policy as stated in the Policy Certificate.

### **1.23 Total Loss**

There is a Total Loss when:

- the vehicle and/or object has been destroyed;
- the vehicle and/or object is damaged to such extent that it has ceased to be an object of the insured type;
- the costs of repairs exceed 2/3<sup>rd</sup> of the current Market Value;
- the Insured Vehicle or Object is no longer under the insured's control and recovery is not to be expected.

### **1.24 Uninsured Vehicle**

A vehicle to which contrary to the statutory obligations arising out of the LAM no liability policy is in place at the time of the accident.

### **1.25 Vehicle(s) or Object(s) Insured**

The described motor vehicle(s) and/or object(s) as stated in the Policy Certificate and/or as further specified in the applicable Policy Conditions.

## **2) Obligations in the event of a Loss**

**2.1** A Person Insured under this Insurance Policy is obligated, as soon as they are aware of any Occurrence from which a Person Insured might derive a claim for indemnity or in which a third party might see a motive to submit a claim for indemnity, to:

- a.** take, within reasonable limits, any measures that may prevent or reduce the damage, where possible with prior consultation of the Company;
- b.** give prompt notice of the Occurrence to the Company, in any case not later than within 3 days after the Occurrence has become known, ought to have become known or in all reasonableness can be considered known to the Person(s) Insured, stating how, when and where the Occurrence took place and to the extent possible, the names and addresses of any injured persons, witnesses or other parties involved;
- c.** answer the Company's inquiries promptly, fully and correctly and to render the Company every assistance and unconditional cooperation with a view to a speedy settlement of the claim and therefore make available to the Company, without delay, any and all information that is or might be deemed important to this respect, including, when able, the authorization of the Company to obtain medical records, cellular (data) usage or other pertinent information and to submit to examination at the Company's expense by physicians or the Company's choice, as often as the Company might reasonable require;
- d.** immediately forward all correspondence, requests, demands, orders, claims, written summons, notices and/or other documentation upon receipt that pertain to the claim;
- e.** assume no obligation, make no payment or incur no expense without the Company's prior consent, unless at the Person Insured's own cost, and refrain from any act or behavior that could harm the interests of the Company;

**2.2** In the event of a Loss, irrespective whether it concerns a single or multiple vehicle incident, destruction, burglary, theft or Joyriding, an Insured Person is obligated, to immediately call both the Police and the Accident Handler appointed by the Company to report the incident, and to remain at the scene until the Police and Accident Handler have appeared. Exception is made when the nature and seriousness of the personal injury sustained by the Person Insured prevents compliance herewith. In cases where the Accident Handler suspects the person driving the vehicle was under the influence of alcohol, drugs or any other substance, the driver will be notified of such suspicion by the Accident Handler, upon which notification the driver is obligated to cooperate to have his blood or urine tested for alcohol and/or drugs use either by the police or at the request or on behalf of the Company and in case of medical attention instruct the medical staff to perform such testing. Non-compliance with the aforementioned leads to the forfeiting of rights as referred to in article 2.5 hereunder, except if the driver of the vehicle due to the seriousness of his injuries in all reasonableness could not comply with such obligation during at least 6 hours after the attendance by the Accident Handler;

**2.3** The Company is in no way obligated to defend the Person Insured against a criminal prosecution. However, if a Person Insured is prosecuted in connection with death, injury or damage to property caused to a third party, for which the Company might become liable under civil law, the Person Insured is obligated to inform the Company thereof and forward all relevant documents pertaining to the criminal prosecution. It will be the Company's discretion, in cases where it considers this advisable, to appoint a legal representative to defend the Person Insured in order to avoid or mitigate criminal conviction, which conviction may serve as legal proof towards the civil liability claim. The costs of such appointed legal representation will be for the account of the Company.

**2.4** The Person Insured must take all reasonable steps to protect the Insured Vehicle and/or Object from further damage. In doing so the Person Insured must keep a record of expenses for consideration in the settlement of the claim and permit the Company to inspect the Insured Vehicle and/or Object and records proving the Loss before its repair or disposition.

**2.5** Violation by the Person(s) Insured of an obligation arising from the Insurance Policy, including any and all duties contained in these Insurance Policy Conditions, may lead to forfeiture of the right of any compensation for damages under the Insurance Policy, if the seriousness of the violation and/or the extent to which the reasonable interests of the Company have been harmed gives cause thereto. As an purely exemplative and not exhaustive enumeration, this will be the case by all means in the event of (attempted) deception of the Company by not disclosing information to the Company, in a truthful and comprehensive manner, whether at the time of taking out the Insurance Policy or in the event of a claim.

### **3) Premium and disclosure obligation**

#### **3.1 Premium calculation and disclosure obligation**

The premium is determined based on the information the Company has received about the Insured Vehicle and/or Object and/or the Persons Insured. The Policyholder has an obligation, prior to entering into the Insurance Policy agreement, but also during the Period of Insurance in case of changes in the information initially provided to the Company, to disclose to the Company all facts which he knows or is supposed to know and on which depends or may depend, as the Policyholder knows or is supposed to understand, the Company's decision whether and, if yes, under what conditions it will want to (continue to) provide the insurance coverage and set the premium rate. If at any time thereafter, it should appear that the information provided is not in agreement with the actual information (anymore), the Company shall have the right to impose an additional premium based on the actual information for the remainder of the Period of Insurance or to lower the Sum Insured. In case of a claim, the benefit shall be reduced in proportion to the amount which the premium would have been increased with or the Sum Insured would have been reduced with. If the Company would have set any other condition(s) if it had known the actual state of affairs, a benefit shall only be due if the undisclosed or incorrectly disclosed facts are irrelevant to the assessment of the risk as it materialized or as if such conditions had been included in the Insurance Policy Conditions. No benefit shall be due if the Company would not have provided insurance if he had known the actual state of affairs. If the incorrect information has been provided with the intent to deceive the Company, the Insurance Policy will be terminated by the Company with immediate effect and no benefit shall be due.

### 3.2 Premium payment

The insurance premium and additional costs, for example in case of changes or surcharges, applicable taxes and Deductible, are due in advance. The Insurance Policy and its period of coverage will commence upon the day and time of payment of the premium.

### 3.3 Non-payment of premium(s)

Because the Insurance Policy will commence upon the day and time of payment of the premium, there shall exist no cover under this policy for any event that occurred in advance of said payment. By operation of law and without further notice by the Company, the Insurance Policy will end upon expiry of the Period of Insurance as stated in the Policy Certificate.

### 3.4 Collection costs

All (extra-) judicial collection costs, including legal interest, in case of non-compliance of the Policyholder with any of the payment obligations towards the Company under the terms of this Insurance Policy will run for the account of the Policyholder.

### 3.5 Premium refund

If the insurance agreement is terminated by the Policyholder due to circumstances as referred to under article 8b and 8c here below, the Policyholder, after submission of the original Insurance Policy Certificate or, in case of a digital Insurance Policy Certificate, upon the warranting by the Policyholder that one will refrain from using any digital copy and will withdraw same from circulation, is entitled to a refund of the portion of the premium due over the period in which the Insurance Policy is no longer effective, as per the following short period table<sup>2</sup>:

Coverage Till	Month(s)	Retain percentage from yearly premium
Not exceeding	8 days	12.5%
	1 Month	25%
	2 Months	37.5%
	3 Months	50%
	4 Months	62.5%
	6 Months	75%
	8 Months	87.5%
Exceeding	8 Months	100%
NEW not exceeding	3 months	50%

If the insurance agreement is terminated by the Company due to circumstances as referred to under article 8b and 8d here below, for reasons through no fault or action of the bona fide Policyholder or Persons Insured, the Policyholder, after submission of the original Insurance Policy Certificate, or, in case of a digital Insurance Policy Certificate, upon the warranting by the Policyholder that one will refrain from using any digital copy and will withdraw same from circulation, is entitled to a pro-rata refund of the portion of the premium due over the period in which the insurance is no longer effective.

It will be the Company's sole discretion, to terminate the Insurance Policy upon the Occurrence of a Loss due to circumstances which can be imputed to the Person Insured's contributory negligence<sup>3</sup>, in which event the Policyholder is obligated to submit the original Insurance Policy Certificate or, in case of a digital Insurance Policy Certificate, to warrant that one will refrain from using any digital copy and will withdraw same from circulation, and no refund will be made for the unexpired period for which premium has already been paid.

If the insurance agreement is terminated by the Company due to circumstances as referred to under article 8e here below, the Policyholder is obligated to submit the original Insurance Policy Certificate and no refund will be made for the unexpired period for which premium has already been paid.

If the insurance agreement is terminated by the Company due to the Insured Vehicle being declared a Total Loss as referred to under article 8f here below, the Policyholder is obligated to

<sup>2</sup> Of the annual premium.

<sup>3</sup> Such as, but not limited to, giving rise to a recovery claim by performing any such acts that causes the applicability of a general exclusion as worded in article 9, such as but not limited to sub b, d, h, i, k, q et cetera.

submit the original Insurance Policy Certificate, or, in case of a digital Insurance Policy Certificate, to warrant that one will refrain from using any digital copy and will withdraw same from circulation, and no refund will be made for the unexpired period for which premium has already been paid.

#### 4) No Claim Bonus

The premium figure is among other information also based on the Policyholder's claims history. A discount will be given on the premium, when evidence is provided of no-claims from a previous insurance company, or if the Policyholder has a claim free record with the Company, as per the following table:

Private Vehicle Third Party (TP) Table			NCB% in the next insurance year		
Claim Free Years	Tread	NCB%	Without a claim increase to tread (NCB%)	With 1 claim, back to tread (NCB%)	With 2 claims, back to tread (NCB%)
-2	0	- 20%	1 (-10%)	0 (-20%)	0 (-20%)
-1	1	- 10%	2 (0%)	0 (-20%)	0 (-20%)
0	2	0%	3 (10%)	0 (-20%)	0 (-20%)
1	3	10%	4 (20%)	0 (-20%)	0 (-20%)
2	4	20%	5 (30%)	1 (-10%)	0 (-20%)
3	5	30%	6 (40%)	2 (0%)	0 (-20%)
4	6	40%	7 (50%)	3 (10%)	0 (-20%)
5	7	50%	8 (55%)	4 (20%)	1 (-10%)
6	8	55%	9 (60%)	5 (30%)	2 (0%)
7	9	60%	10 (60%)	5 (30%)	2 (0%)
8	10	60%	11 (60%)	5 (30%)	2 (0%)
9	11	60%	12 (60%)	6 (40%)	3 (10%)
10	12	60%	13 (60%)	6 (40%)	3 (10%)
11	13	60%	14 (60%)	6 (40%)	3 (10%)
12	14	60%	15 (60%)	7 (50%)	4 (20%)
13	15	60%	16 (60%)	7 (50%)	4 (20%)
14	16	60%	17 (60%)	8 (55%)	5 (30%)
15	17	60%	18 (60%)	8 (55%)	5 (30%)
16	18	60%	19 (60%)	9 (60%)	6 (40%)
17	19	60%	20 (60%)	9 (60%)	6 (40%)
18	20	60%	21 (60%)	9 (60%)	6 (40%)
19	21	60%	22 (60%)	9 (60%)	6 (40%)
20 or more	22	60%	22 (60%)	9 (60%)	6 (40%)

Private Vehicle Own Damage (OD) Table			NCB% in the next insurance year		
Claim Free Years	Tread	NCB%	Without a claim increase to tread (NCB%)	With 1 claim, back to tread (NCB%)	With 2 claims, back to tread (NCB%)
-2	0	- 20%	1 (-10%)	0 (-20%)	0 (-20%)
-1	1	- 10%	2 (0%)	0 (-20%)	0 (-20%)
0	2	0%	3 (10%)	0 (-20%)	0 (-20%)
1	3	10%	4 (20%)	0 (-20%)	0 (-20%)
2	4	20%	5 (30%)	1 (-10%)	0 (-20%)
3	5	30%	6 (40%)	2 (0%)	0 (-20%)
4	6	40%	7 (50%)	3 (10%)	0 (-20%)
5	7	50%	8 (55%)	4 (20%)	1 (-10%)
6	8	55%	9 (60%)	5 (30%)	2 (0%)
7	9	60%	10 (65%)	5 (30%)	3 (10%)
8	10	65%	11 (70%)	6 (40%)	4 (20%)
9	11	70%	12 (70%)	6 (40%)	4 (20%)
10	12	70%	13 (70%)	7 (50%)	5 (30%)
11	13	70%	14 (70%)	7 (50%)	5 (30%)

12	14	70%	15 (70%)	8 (55%)	6 (40%)
13	15	70%	16 (70%)	8 (55%)	6 (40%)
14	16	70%	17 (70%)	9 (60%)	7 (50%)
15	17	70%	18 (70%)	9 (60%)	7 (50%)
16	18	70%	19 (70%)	10 (65%)	8 (55%)
17	19	70%	20 (70%)	10 (65%)	8 (55%)
18	20	70%	21 (70%)	11 (70%)	9 (60%)
19	21	70%	22 (70%)	11 (70%)	9 (60%)
20 or more	22	70%	22 (70%)	11 (70%)	9 (60%)

Commercial Vehicle No Claim Table (TP+OD)			NCB% in the next insurance year		
Claim Free Years	Tread	NCB%	Without a claim increase to tread (NCB%)	With 1 claim, back to tread (NCB%)	With 2 claims, back to tread (NCB%)
-2	0	- 20%	1 (-10%)	0 (-20%)	0 (-20%)
-1	1	- 10%	2 (0%)	0 (-20%)	0 (-20%)
0	2	0%	3 (10%)	0 (-20%)	0 (-20%)
1	3	10%	4 (20%)	0 (-20%)	0 (-20%)
2	4	20%	5 (30%)	1 (-10%)	0 (-20%)
3	5	30%	6 (40%)	2 (0%)	0 (-20%)
4	6	40%	7 (50%)	3 (10%)	0 (-20%)
5	7	50%	8 (55%)	4 (20%)	1 (-10%)
6	8	55%	9 (60%)	5 (30%)	2 (0%)
7	9	60%	10 (60%)	5 (30%)	2 (0%)
8	10	60%	11 (60%)	5 (30%)	2 (0%)
9	11	60%	12 (60%)	6 (40%)	3 (10%)
10	12	60%	13 (60%)	6 (40%)	3 (10%)
11	13	60%	14 (60%)	6 (40%)	3 (10%)
12	14	60%	15 (60%)	7 (50%)	4 (20%)
13	15	60%	16 (60%)	7 (50%)	4 (20%)
14	16	60%	17 (60%)	8 (55%)	5 (30%)
15	17	60%	18 (60%)	8 (55%)	5 (30%)
16	18	60%	19 (60%)	9 (60%)	6 (40%)
17	19	60%	20 (60%)	9 (60%)	6 (40%)
18	20	60%	21 (60%)	9 (60%)	6 (40%)
19	21	60%	22 (60%)	9 (60%)	6 (40%)
20 or more	22	60%	22 (60%)	9 (60%)	6 (40%)

## 5) Third Party Liability Deductible clause

Notwithstanding any Endorsement clause to the contrary, it is hereby declared and noted that in the event of a claim on the Insurance Policy, a portion of the Covered Loss is not payable by the Company. This is called the Deductible. The statutory Deductible in accordance with the provisions of the National Ordinance on Motor Vehicles Liability Insurance ('LAM') and its National Decree is Afl. 150,- for any third party liability claim.

Whenever the Insured Vehicle is being driven by any person who is under the age of 23 years or over 70 years of age or who has not held a valid driver's license for at least one year when a claimable third party Loss occurs, an additional Deductible, over and above the statutory Deductible mentioned above will apply in the amount of Afl. 125.00. This additional Deductible will be at the expense of the Person(s) Insured and will not be invoked against the third party. The above amounts of Deductible shall be applicable in addition to any other amounts for which the Persons Insured are responsible as specified in the policy schedule.

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## **6) Revision of the insurance**

### **6.1 Collective revision**

The Company preserves the right to implement amendments in regard to premiums and/or Policy Conditions for specific risk groups collectively. If the risk covered under this Insurance Policy belongs to such risk group, the Company may implement such amendments applicable to this Insurance Policy, in conformity with the collective revision. The Company preserves the right, to set the date as of which the amendment is to take effect. If the Company wishes to exercise this right, it shall inform the Policyholder accordingly in writing and advise the Policyholder of the date as of which the amendment will take effect. The date on which the amendment shall take effect will be at least 14 days from the date of notification by the Company.

The Policyholder shall be informed of the amendment and shall be deemed to accept same, unless the Company has received a written notice of objection from the Policyholder within the 14 days notification period. The option to terminate the Insurance Policy is not available to Policyholder, if:

- a. the Company's amendment in regard to premiums and/or Policy Conditions is required under any statutory provision or stipulation; or
- b. the amendment has resulted in a lower premium and/or more extensive cover.

### **6.2 Other adjustments**

These Insurance Policy Conditions and the Policy Certificate contain all of the agreements between the Company and the Persons Insured concerning the coverage provided. Notices to the Company or any of her representatives, or knowledge possessed by any such representative or by any person, shall not effect a waiver or a change in any part of this Insurance Policy or halt the Company from asserting any right under the terms of this policy, nor shall the terms of this Insurance Policy be amended or waived, unless agreed to by written Endorsement issued by the Company and made a part of this Insurance Policy.

## **7) Change of risk**

If the Insured Vehicle and/or Object is modified in any manner that could affect the Company's risk, or if the Insured Vehicle and/or Object is used for any other purpose than stated in the Policy Certificate, or if the vehicle will be driven by (an)other driver(s) than initially indicated to the Company or the physical condition of the Insured person(s) has been altered to the extent this might cause an increased risk, the Policyholder must inform the Company accordingly without delay. Failing to do so may result in rights under this policy being forfeited once the Company's risk has been affected negatively. In case a change of risk materializes, the Company will be entitled to amend the applicable Policy Conditions. Upon invoking such right the Company shall inform the Policyholder accordingly in writing and advise the Policyholder of the date as of which the amended Policy Conditions will sort effect. The date on which the amendment shall take effect will be at least 14 days from the date of notification by the Company.

In the event of a Loss Occurrence in the interim period the right to indemnity only exists if the cause and circumstances thereof do not fall within the scope of the change of risk and to which extent the amended Policy Conditions would have been of influence to the settlement of such claim. The Policyholder shall be informed of the amendment and shall be deemed to accept same, unless the Company has received a written notice of objection from the Policyholder within the 14 days notification period. The option to terminate the Insurance Policy is not available to Policyholder, if the amendment has resulted in a lower premium and/or more extensive cover.

## **8) Termination of the insurance**

### **8.1 Causes for termination**

The Insurance Policy will:

- a. end by operation of law without further notice from the Company upon expiry of the Period of Insurance as stated in the Policy Certificate. Unless explicitly agreed upon otherwise, the Insurance Policy will not be subject to tacit renewal. If parties so desire, a new Insurance Policy can be entered into upon the expiry of the previous Insurance Policy, under conditions that will be applicable based on the information known and/or provided to the Company at the inception date of the new Insurance Policy;
- b. terminate before the end of its term upon notice of termination by either the Company or the Policyholder for any given reason, subject to a notice period that is reasonable in the



circumstances given. Upon termination the Policyholder is obligated to return the original Policy Certificate, or, in case of a digital Insurance Policy Certificate, to warrant that one will refrain from using any digital copy and will withdraw same from circulation, without delay. In the absence of any far-reaching circumstances 10 working days' notice by the Company will be considered a reasonable notice period in order for the Policyholder to obtain insurance elsewhere;

- c. terminate upon notification by the Policyholder that he declines to accept an amendment of the Insurance Policy resulting in new rates and/or Policy Conditions in accordance with the provisions of article 6 and 7, here above;
- d. terminate before the end of its term upon notice of termination by either the Company or the Persons Insured when the Policyholder or his legal successors ceases to hold an interest in the Insured Vehicle and having effectively relinquished their authority over the vehicle, in which case the Policyholder or his legal successors must inform the Company accordingly in writing and return the original Policy Certificate without delay. The Insurance Policy will not be transferrable to any new owner, unless it has been agreed upon otherwise between the new owner and the Company;
- e. be terminated with immediate effect as soon as the Company has come to know that the Policyholder or somebody on his behalf, at any given time, has provided incorrect information to the Company either with the intent to deceive the Company or when the incorrect information is of such nature that the Company would not have provided insurance or not under the same conditions if it had known the actual state of affairs. Refusing to comply with the duty of disclosure by either the Policyholder or other Persons Insured at any given time will sort the same effect in case a reasonable interest of the Company has been prejudiced as a result of such noncompliance;
- f. be terminated with immediate effect once the Company has honored and paid a claim for the Total Loss of the vehicle.

## 8.2 Manner of termination

Written notice of termination by the Company shall be deemed sufficiently given if delivered to the postal or e-mail address of the Policyholder most recently given to the Company by the Policyholder or the insurance broker appointed by the Policyholder. Written notice of termination by the Policyholder shall be deemed sufficiently given if delivered to the Company's office or via e-mail to [info@newindia.aw](mailto:info@newindia.aw). Proof of delivery lies with the sender. Such notice shall be deemed to be effective from the moment of proven delivery.

Any refund of premium as per article 3.5 above is subject to the condition that no claim has arisen under the Insurance Policy prior to the delivery of a notice of termination by the Policyholder to the Company.

## 9) General exclusions

Not covered under this policy is any liability:

- a. for damages suffered by the Policyholder or he who effectively owns, keeps or drives the vehicle that has caused the accident, or damages suffered by their spouses or by any of their blood relatives and relatives by marriage in the direct line, if these persons are living with them and being maintained in the same household;
- b. for anyone who has defaulted on the obligations contained in these Insurance Policy Conditions;
- c. for material damage caused to goods held in the charge of the Persons Insured or transported by the vehicle insured under this policy.
- d. for Loss caused while legally or illegally participating in or performing acts of or similar to pace making, reliability trials, speed trial, driving skill contest, rally, racing or fever and alike;
- e. for Loss caused while the Insured Vehicle was used for hire, leasing, the carrying of persons against payment, or while used for any purpose other than as stated in the Policy Certificate;
- f. for anyone using the Insured Vehicle and/or Object without Policyholder's explicit permission if the Policyholder or he who effectively owns, keeps, holds or administers the vehicle can be blamed in all reasonableness for that person taking unauthorized possession and control over the vehicle. It is considered a breach of the general duty of care for example, if the vehicle is left unlocked, with open windows, unattended for a prolonged period without additional safety measures such as surveillance and steering wheel/brake pedal lock, or if the keys are stored in an for the unauthorized person's accessible manner;
- g. for Loss caused while the driver of the Insured Vehicle had his driver's license retracted or was not in the possession of a valid driver's license in the territory of cover in the category under

which the vehicle is classed or had failed to renew their driver's license. The aforementioned exclusion does not apply if the license was expired for less than 6 months and the driver of the vehicle submits to the Company adequate proof by means of a document stating the application for a renewal of the expired driver's license, which renewal is being processed at the time of the incident;

- h.** for Loss while the driver of the Insured Vehicle was under the influence of alcohol, drugs, medicine and/or any other type of intoxicant, or a combination thereof, which according to general experience enhances the risk of an accident. "Under the influence" means that one's judgment, attentiveness or alertness has been negatively affected or impaired, which may also be concluded from the specific facts and circumstances of the case and to which respect the exceeding of the per millage permitted by law is not required;
- i.** for Loss while the driver of the Insured Vehicle was in an unfit state to a degree that would have disqualified him from driving a vehicle either by law, government regulation or common standards and situational awareness, this includes, but is not limited to the enhanced risk to an accident or damages due to intoxication in excess of the percentage permitted by law, extensive tiredness causing sleep, effects of medical treatments or the usage of medicines, prescribed or not, weakness, sickness or old age;
- j.** for Loss caused by a driver who refused to cooperate with taking a breathalyzer test or any other test for alcohol or drug use conducted by the police, or avoids such a test by not waiting for the arrival of the police without objective justification;
- k.** for any Person Insured by whose consent, or by their willful act or conditional intent, recklessness or gross negligence a Loss was caused or the risk thereto was enhanced, such as, but not limited to, exceeding the statutory maximum speed limits, or performing acts that are known to cause an adverse effect on the level of attention in traffic, such as, but not limited to, putting on make-up, quarreling with another person or performing acts on the cellular phone or any other electrical device not pertaining to the standard equipment of the vehicle, while driving or participating in traffic, or the permitting of passengers to take place in the open cargo area of a pick-up truck while participating in traffic;
- l.** for Loss in connection with war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, riot, domestic uproar, revolution, insurrection, mutiny, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, armed conflict, force of arms, armaments or armed international intervention, any nuclear energy (including weapon, fuel or waste) risks, contamination with radioactivity, ionizing radiations, or any act of terrorism, being the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public or any section of the public in fear, as well as Loss in connection with any action taken in controlling, preventing, suppressing or in any way related to the aforementioned causes. This exclusion will apply regardless of any other cause or event contributing concurrently or in any other sequence to such Loss;
- m.** for a Loss that arose in any period when the vehicle has been attached or confiscated by order of the Aruban Court or an Aruban Prosecutor;
- n.** for a Loss caused while the vehicle is sea-bound while entrusted to a carrier, other than by ferry, within the territorial scope of this Insurance Policy;
- o.** for Loss due to a flood or any other type of weather phenomenon that was preceded by an official warning from the Meteorological Department. The aforementioned does not apply if the vehicle was parked on the property of the Policyholder at the time the damage was suffered or if it was deliberately parked at a location where the Policyholder expected and reasonably could have expected that the vehicle would be better protected from damage;
- p.** for Loss caused by a driver who fails to alert the police and/or Accident Handler and/or removes himself and/or the vehicle and/or object from the scene where the damages occurred before the arriving of the police and the Accident Handler at that scene, transportation by ambulance or private car to the hospital due to serious personal injuries excluded<sup>4</sup>;
- q.** for Loss caused by domestic violence, molestation, vandalism or due to the involvement of the vehicle and/or object in a criminal act;
- r.** for Loss which is directly and exclusively due to faulty construction or materials, inherent defects or other internal causes;

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<sup>4</sup> Leaving the scene of an accident before the police and/or the Accident Handler is able to assess the scene and determine among other things the identity of the driver and/or (position of the) vehicle and cause of accident prejudices the position of the Company and under circumstances constitutes violation of article 4 of the National Road Traffic Ordinance.

- s.** for Loss caused with the involvement of the Insured Vehicle and/or Object while being on any industrial property, hotel property or off-road (not being sand roads commonly in use within the residential areas, but concern inhabited areas along the island's coast lines, ditches, hills, dunes, etc.);
- t.** in case of misrepresentation of facts and other information by the Persons Insured, whether intentional or unintentional, when filing a claim;
- u.** due to an agreement made by the Person Insured where no civil liability would arise but for that agreement;
- v.** for Loss caused with the involvement of the Insured Vehicle(s) and/or Object(s) during voluntary participation in parades, protests, campaigns and/or festive events, among which but not limited to carnival events;
- w.** when the Insured and/or driver behaves in such a way that the free flow of traffic is impeded unnecessarily or that the road safety is jeopardized or reasonably can be assumed that the road safety might be jeopardized in conformity with "article 12 sub 1 of the Traffic Law";
- x.** for Loss in connection with gradual environmental impairment, discharge, dispersal, release or escape of pollutants, the costs of removing, nullifying or cleaning up of pollutants and fines, penalties, punitive or exemplary damages directly or indirectly related to aforementioned causes, unless such Loss is caused by a sudden identifiable unintended and unexpected happening which takes place in its entirety at a specific time and place. Pollutants shall mean any solid, liquid, gaseous or thermal irritant or containment, including but not limited to smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste;
- y.** for Loss suffered in the course of supplying, storing or transporting asbestos and/or asbestos products;
- z.** for Loss in connection with vehicles built, designed or adapted for special purposes or not designed to run on terra firma, except when being used on public roads for normal driving;
- aa.** for Loss caused by the use of any vehicle the principal use of which is the transport of high explosives, such as nitroglycerine, dynamite or any other similar explosive, the bulk transportation of liquefied petroleum or gasoline (use of tank truck for the transportation of fuel oil is not excluded), transportation of hazardous chemicals or gases in liquid, compressed or gaseous form (except transportation of liquefied gas in cylinders for personal / domestic use);
- bb.** for Loss caused by vehicles specifically designed or adapted for military, law enforcement or public emergency use (except private ambulance or towing vehicles);
- cc.** for OD Loss in respect of vehicles pertaining to storage yards and car stocks; and
- dd.** for Loss caused by vehicles used airside on airports or airfields.

If the Company alleges that by reason of the aforementioned exclusions, any Loss is not covered by this policy, the burden of proving the contrary shall be upon the Insured.

## 10) Claim settlement

The Company is entitled to deal with any claim for indemnity for Loss instituted against the Persons Insured, either by process of law or otherwise, for which the Company might become liable and, with regard to such claim indemnify a third party claimant directly, negotiate an out of court settlement or contest the claim. Any decisions made by the Company in such matters shall be binding upon the Persons Insured.

## 11) Recovery

In case the Company is obligated to indemnify a third party in accordance with the provisions of the National Ordinance on Motor Vehicles Liability Insurance ("LAM"), while the Person Insured's rights to compensation have been forfeited hereunder or are excluded from coverage, the Company has the right to seek recovery from the Persons Insured. The same applies when the Policyholder does not return the original Policy Certificate, or, in case of a digital Insurance Policy Certificate, refuses to warrant that one will refrain from using any digital copy or to withdraw same from circulation, upon termination of the policy as referred to in article 8 above, whether or not accompanied with the signing of a loss of certificate statement, in the event the Company has become liable for a third party claim based on article 12 LAM. The Policyholder will forfeit any and all rights or entitlement to a no claim discount up and until the day that the Persons Insured have indemnified the Company in full in regard of the recovery claim. It will be entirely within the Company's discretion to terminate the Insurance Policy before the end of its term or to deny renewal of any Insurance Policy upon expiry of the preceding insurance period if the Persons

Insured, despite written demand thereto, did not or refused to indemnify the Company in full in regard to such recovery claim.

## **12) Concurrence with other insurance**

If different insurance contracts have been entered into in good faith with respect to the same vehicle and the full value is insured at the most senior ranking, the latter will exclusively prevail, and the subsequent insurers will be discharged.

If the full value is not insured with the most senior ranking insurance, the subsequent insurers are liable for the greater value according to the order at which the subsequent insurance contracts are concluded.

If different insurance contracts have been entered into in good faith and they were concluded on the same day, each insurer will have to contribute in proportion to the sum for which they have signed.

## **13) Insured driver(s)**

Prior to entering into the Insurance Policy agreement, but also during the Period of Insurance in case of changes in the information initially provided to the Company, the Policyholder has to inform the Company of the persons that will drive the Insured Vehicle with the permission of the Policyholder. Condition precedent to acceptance by the Company as insured driver of the Insured Vehicle will be the holding of a valid driver's license issued by one of the ratifying States of the Geneva Convention on Road Traffic. The information to be provided to the Company will include a copy of the driver's license and the claims history of the driver(s) in regard to traffic incidents and/or traffic violations. It will be the Company's discretion to deny a certain person as insured driver. If the Insured Vehicle is involved in an incident that causes the liability of the Company based on the LAM, while the Insured Vehicle is being driven by another person than the specified insured driver(s) as accepted by the Company, without imperative necessity, then it will be at the discretion of the Company to recover these damages from the person(s) insured.

## **14) Jurisdiction**

The Company shall not be liable for any costs incurred in obtaining legal assistance in connection with legal proceedings outside the jurisdiction of Aruba and/or the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba. Nor will the Company be held to give effect to a foreign judgment unless this judgment has been confirmed by a final and conclusive judgment of the court within the Aruban jurisdiction as referred to above.

## **15) Disputes, mediation and arbitration**

### **15.1 Competent court**

All disputes arising out of this contract, with the exception of those described under 15.2 and 15.3 below, are subject to the jurisdiction of the Court of First Instance of Aruba, and/or the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.

### **15.2 Mediation**

Either party may suggest mediation by giving written notice to the other party seeking the appointment of a mediator at any time. Because mediation requires mutual willingness, the mediation process will commence upon signing of the mediation agreement as submitted by the mediator, to be appointed with mutual consent, by both parties.

### **15.3 Arbitration clause**

If a dispute arises between the parties in connection with or arising out of this Insurance Policy, either party may, by notice to the other, refer the dispute for arbitration by serving on the other a Notice to Refer. The Notice to Refer shall state the issues in dispute. The service of the Notice to Refer will be deemed to be the commencement of arbitration proceedings. Either party may within a period of 7 days of the Notice to Refer give notice to the other of further disputes and, if such notice is given, those further disputes will be deemed to be included in the reference to arbitration.

After the 7 days have lapsed since the initial Notice to Refer the dispute will be referred to a panel of arbitrators, composed of three members, whose decisions shall be accepted by the parties concerned and which is binding upon them<sup>5</sup>.

The members of the panel of arbitrators will be chosen from persons who may be deemed to have the specific experience of the subject matter of the dispute. Each of the parties designates one member. The two members designated by the parties, in their turn, designate the third party by mutual consent. Should they fail to agree on this appointment, the third member will be designated by the competent judge in Aruba, at the request of the parties or of the most diligent party, who will then notify the other party of the submitting of this court petition. The appointment of the members of the panel of arbitrators must be evident from a deed signed by parties and these members, which also incorporates a description of the subject matter of the dispute. The members of panel of arbitrators will endeavor to give an equitable and just verdict.

#### **15.4 Costs**

In case of mediation, the costs of the mediator will be borne jointly by the parties, each paying one-half.

In case of arbitration, each party will bear the costs of the member appointed by him, the costs of the third member will be borne jointly by the parties, each paying one-half. The third member is entitled, as condition precedent for the acknowledging of his appointment, to demand a deposit from the parties of an amount in all reasonableness to be determined, as security for the payment of his costs. In that case the parties are obligated to pay and equally contribute to such a deposit.

#### **15.5 Other disputes**

If, besides the disputes as referred to under 15.3, other disputes arise between parties, the provision mentioned under 15.1 will, notwithstanding the provisions under 15.3, also apply to the first mentioned disputes.

### **16) Severability**

If any part of any provision of these Policy Conditions is found by an arbitrator or court to be void or unenforceable, such part of the provision shall be deemed to be deleted from this Agreement and the remainder of such provision and the Policy Conditions shall continue in full force and effect.

In connection with the void or unenforceable part, parties will have the obligation to negotiate in good faith in order to agree to the terms of a mutually satisfactory provision that is valid and is as much as possible in line with the purport of the provision that is to be replaced.

### **17) Limitation period**

If the Company has taken a definitive position regarding a third party liability claim under this Insurance Policy, either by rejecting the entitlement or by offering payment by means of a final settlement, the right of action and any entitlement to benefits in respect of the Loss Occurrence on which the claim was based, will lapse upon expiry of a period of three years, to be calculated from the day following the day on which the Company has either acknowledged the claim or unambiguously notified to deny the claim, unless the Policyholder, other Persons Insured or the third party claimant has lawfully challenged the position of the Company within this period.

### **18) Address**

Any notification by the Company to the Policyholder will be sent to the last known address as communicated by the Policyholder to the Company or at the address of the insurance broker appointed by the Policyholder. The Policyholder is obligated to notify the Company in writing, without delay, of any change in his address. The address of the Company will be deemed to be its registered office at J.E. Irausquin Boulevard 14, Oranjestad in Aruba.

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<sup>5</sup> The legal basis for the arbitration procedure is article 1020 of the Code of Civil Procedure and is subject to the English version of the UNCITRAL Model Law on International Commercial Arbitration, as adopted by the United Nations Commission on International Trade Law.

## **Section 2: Special Conditions Third Party Coverage ('TP')**

Irrespective the provisions stated elsewhere in these Policy Conditions, the Insurance Policy shall be deemed to comply with and meet all the statutory requirements under the National Ordinance on Motor Vehicles Liability Insurance (*Landsverordening Aansprakelijkheidsverzekering Motorrijtuigen "LAM"*).

### **19) Extent of Coverage**

During the Period of Insurance and subject to the limits specified in the Insurance Policy, the Company shall provide coverage against the statutory liability of the Persons Insured in the event of an accident caused by or arising out of the use of the Insured Vehicle<sup>6</sup> and/or object, and will be liable towards the prejudiced party to pay all sums which the Persons Insured shall become liable to pay under civil law as compensation for:

- (a)** Death of or bodily injury to any person including the passengers in the vehicle except the Persons Insured and their spouses or any of their blood relatives and relatives by marriage in the direct line, if these persons are living with them and being maintained in the same household;
- (b)** Damages to materials and property, except those owned by the Persons Insured or held in trust or in their custody or control at the time of the accident;
- (c)** Immaterial damages suffered by any person including the passengers in the vehicle except the Persons Insured and their spouses or any of their blood relatives and relatives by marriage in the direct line, if these persons are living with them and being maintained in the same household;
- (d)** Financial loss such as loss of income, reasonable costs related to a temporarily replacement vehicle of similar or lower standard as the damaged vehicle for the necessary time of repairs or until financial settlement of a Total Loss damage, reasonable costs to determine and assess liability and/or the amount of damages and/or reasonable costs to obtain extrajudicial payment thereof;
- (e)** Reasonable costs of taking measures to prevent or minimize damage or loss as referred to under a, b, c and d above;
- (f)** Statutory rate of interest calculated on the principal sum of the damages as referred to under a, b, c, d, and e above;
- (g)** Costs made by the third party related to litigation as per the court-approved scale of costs or as contained in the cost award of a final and conclusive judgment;
- (h)** Costs of civil proceedings and legal representation made by the Persons Insured in connection with third party liability of the Persons Insured, insofar as such costs have been approved by the Company beforehand in writing.

### **20) TP Insurance Coverage for Temporary Substitute Vehicle**

If the Insured Vehicle is withdrawn from normal use because of its breakdown, repair, servicing, loss or destruction, the TP coverage shall also apply to a similar temporary substitute vehicle not owned by the Persons Insured or their spouses or any of their blood relatives and relatives by marriage in the direct line<sup>7</sup>, which replaces the Insured Vehicle, during a maximum period of 1 month and provided that this temporary substitute vehicle is not insured elsewhere. Condition precedent for the applicability of this temporary substitute clause is that the Policyholder shall notify the Company of the temporary substitute vehicle and its specifics prior to the use thereof. A small fee for administration costs may apply.

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<sup>6</sup> Including the use of a trailer, strictly used for private purposes only, for as long as it is connected to the insured vehicle or has been detached or dislodged there from, yet without having arrived in a stationary position outside the traffic, as well as civil liability for damages caused by or via a load, stored on or inside the vehicle or the trailer, or detached or dislodged there from, other than during loading or unloading. However, in the absence of the applicability of the Towage Add-On, indemnification by the Company of loss or damages suffered by the prejudiced party due to the use of a trailer including its load by the person(s) insured will give rise to a recovery claim towards the person(s) insured.

<sup>7</sup> If these persons are living with them and being maintained in the same household.

## **21) Optional TP Endorsements**

### **A) Increased Sum Insured**

The statutory Sum Insured for third party liability may be increased upon the request of the insured. The insurance premium will be determined based on the preferred amount of increase.

### **B) Towage Clause**

Upon applicability of this clause the Company shall waive its right of recourse in case of indemnification of the prejudiced party of Loss due to the use of a trailer including its load.

No restriction will apply for the use of private purposes only, for as long as the Policyholder has specified the nature of the use upon acquirement of the Insurance Policy and adhered to the indicated nature of the use at the time of the incident. The amount of premium for this Endorsement will, among other relevant circumstances, depend on the indicated nature of the use and its intended load as well as the age and the weight of the trailer.

Special conditions and exclusions:

- i) Coverage exists as long as the trailer is attached to the Insured Vehicle or after having been attached has come loose or disconnected and has not yet come to a standstill outside the traffic;
- ii) An extra Deductible of Afl. 100.00 shall apply;
- iii) Damage to or loss of the trailer itself, as well as to the persons and/or goods transported by the trailer is explicitly excluded.

### **C) Sister Car Clause**

Upon applicability of this clause the extent of coverage as worded in article 19 above, will be extended to also cover Loss inflicted with or by the Insured Vehicle to other motor vehicles which the Policyholder owns, holds or uses and in so far as these motor vehicles are not insured in another way.

Special conditions and exclusions:

- i) The Loss must have been inflicted through the fault of the actual driver of the Insured Vehicle;
- ii) Loss inflicted in the buildings or on the premises used by or belonging to the Policyholder is not covered;
- iii) Consequential Loss arising from the Occurrence and any possible depreciation is not covered.

### **D) Personal Accident Insurance Clause**

Upon applicability of this clause, in the event that authorized non fare-paying passengers, including the driver, other Persons Insured and their spouses or any of their blood relatives and relatives by marriage in the direct line, shall sustain any bodily injury resulting solely and directly from an Insured Event caused by external violent and visible means and caused whilst the passenger(s) is/are mounting into or dismounting from or traveling in the Insured Vehicle mentioned on the Policy Certificate and also whilst engaging in emergency repairs alongside the road of said vehicle or assisting thereby, the Company will pay to the Person(s) Insured or his/her legal personal representative(s) as the case may be, the sum or sums set forth in section 4 of these Policy Conditions and under the stipulations set forth therein.

## **22) Standard Motorcycles Insurance**

Special conditions and exclusions:

- i) Standard Third Party Liability coverage as per article 19 and the LAM (increased Sum Insured is optional);
- ii) Excluded from cover are:
  - Third Party Liability to pillion rider;
  - Damage caused by a single vehicle incident causing the toppling over of the insured motorcycle;
- iii) The driver covered under this Insurance Policy is limited to only the Policyholder.

## **23) Classic Cars Insurance**

Special conditions and exclusions:

- i) Standard Third Party Liability coverage as per article 19 and the LAM (increased Sum Insured is optional);
- ii) Daily use is excluded, insurance coverage will be limited to the precisely described event and/or specific route;
- iii) The Insured Vehicle must be over 20 years old.
- iv) The Insured Vehicle must be registered at the Tax Authorities as a classic car / "old-timer".

## **Section 3: Special Conditions Comprehensive Coverage for Own Damage ('OD')**

### **24) Extent of coverage**

During the Period of Insurance and subject to the limits specified in the Insurance Policy, the Company shall provide coverage for Loss due to Insured Events, up to the Sum Insured but not exceeding the amount mentioned in the applicable Policy Conditions or have the Insured Vehicle and/or Object repaired at the Company's expense. In assessing the claim, the financial loss due to loss of use of the Insured Vehicle and/or Object will not be taken into consideration. Unless a more extensive Endorsement has been agreed upon and is considered applicable in consideration of the prior payment of the corresponding premium, in the event of loss of the Insured Vehicle and/or Object by theft the Company will indemnify the Person Insured for the value thereof at the time of the theft. In the event of Total Loss of the Insured Vehicle and/or Object by fire, explosions or an accident the Company will pay indemnification for the Market Value of the Insured Vehicle and/or Object at the moment before its Loss, less the value of any remnants.

### **25) Salvage, surveillance and transportation**

In the event of a valid OD claim the Company shall cover the cost of salvage and if deemed necessary by the Company, surveillance, and if the Insured Vehicle is no longer independently mobile, the cost of transporting the Insured Vehicle to a repair facility to be agreed upon between the Policyholder and the Company.

### **26) Compensation for Temporary Substitute Vehicle**

If the Policyholder cannot dispose over the Insured Vehicle during its repair of damages caused by an Insured Event, the Company shall compensate the Policyholder the costs (excluding fuel cost) actually incurred for renting a temporary substitute vehicle equal or similar to the Insured Vehicle described on the Policy Certificate up to a maximum of 14 days at Afl. 65.00 per day or a total of Afl. 910.00.

In case of a Total Loss, theft or embezzlement, a maximum period of 14 days at Afl. 65.00 per day or a total of Afl. 910.00 shall apply, taking effect as of the date of the Insured Event.

### **27) Repair of the Insured Vehicle and/or Object**

The Policyholder is not permitted to repair the Insured Vehicle and/or Object or to have it repaired until the Company or a surveyor appointed by the Company has authorized him to do so. If however, the damage to the Insured Vehicle is such that it is impossible to drive or if it would endanger the traffic or the Insured Vehicle itself, but can by a simple temporary repair be restored to such a condition that it can be driven without such risks, the Policyholder is entitled to make such temporary repair without prejudice, however, to his obligations by virtue of this policy. Assessment of the damage and permission to have repairs carried out are always given without prejudice and/or the Company being deemed to have thereby acknowledged its liability under the Insurance Policy.

### **28) Unavailable Parts**

If any part, necessary for the repair of the damaged Insured Vehicle and/or Object, is not available within a reasonable period of time, not exceeding six weeks, the Company will then compensate

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for the average purchase price at the time of the damage, or, if the part is no longer manufactured, the Company will then compensate for the last known average purchase price.

### **29) Prevention of Loss or damage**

The Company shall not pay a claim if the Insured Person(s) did not take all reasonable precautions to prevent injury or Loss, including securing the Insured Vehicle against unauthorized entry when it is unattended. It is a condition of this Insurance Policy that the Insured Vehicle and/or Object is kept in good repair. The Company shall have, at all times, free and full access to examine the Insured Vehicle(s) and/or Object(s) or any part thereof or any driver. In the event of any accident or breakdown the Insured Vehicle shall not be left unattended without proper precautions being taken to prevent further Loss and if the Insured Vehicle is driven before the necessary repairs are effected, any extension of the damage or any further damage to the Insured Vehicle shall be excluded from the scope of the indemnity granted by this Insurance Policy.

### **30) Use of safety belt, car seat or certified helmet**

In the event of a Loss Occurrence resulting in personal injury of the driver and/or the passenger(s) of the Insured Vehicle and it has been established that the injured person, where applicable did not make adequate use of a safety belt or car seat or where applicable did not wear a certified helmet, the indemnification payable to such Insured Person will be reduced with a minimum of 25%, which percentage can be increased depending on the degree of the cause-and-effect relationship between the violated safety regulation and the injuries sustained.

### **31) Loss Payable Clause**

When requesting insurance, as well as during the complete successive Period of Insurance, the Policyholder is obligated to inform the Company if there is any bank, financial institution or other third party that holds an interest in the Insured Vehicle and/or Object. In case the Insured Vehicle and/or Object is subject to a Hire Purchase Agreement made between the bank, financial institution or other third party, hereinafter referred to as Owner(s), of the one part and the Policyholder of the other part, the Owner(s) will be stated on the Policy Certificate as beneficiary of the Insurance Policy to the extent of their interest. The Owner(s) will be interested in any indemnification which but for this Endorsement would be payable to the Insured Person under this Insurance Policy in respect of Loss to the Insured Vehicle and/or Object (which Loss is not made good by repair, reinstatement or replacement) and such money shall be paid to the Owner(s) as long as it is / they are the Owner(s) of the Insured Vehicle and/or Object. The receipt of any such payment made to the Owner(s) of the Insured Vehicle and/or Object shall be a full and final discharge to the Company in respect of such Loss. Notwithstanding any provision in the Hire Purchase Agreement to the contrary this Insurance Policy is issued to the Policyholder as the principal party and not as agent or trustee for the Owner(s) and nothing herein shall be construed as constituting the Policyholder an agent or trustee for the Owner(s) or as an assignment (whether legal or equitable) by the Policyholder to the Owner(s) of his rights benefits and claims under this Insurance Policy. The Policyholder is not permitted to assign his rights, benefits and claims under this Insurance Policy without the prior consent in writing of the Company. Save as by this Endorsement expressly agreed nothing herein shall modify or affect the rights and liabilities of the Policyholder, the Person(s) Insured or the Company respectively under or in connection with this Insurance Policy. Nothing contained in this clause shall in any way constitute or be deemed to constitute any waiver of, prejudice to or affect any rights, which the Company has against the Owner(s) of the Insured Vehicle and/or Object. Neither shall it lessen any obligations, which may be imposed on the Owner(s) of the Insured Vehicle either by or under this Insurance Policy or by law, and such rights and obligations shall, as between the Owner(s) of the Insured Vehicle and/or Object and the Company, remain in full force and effect.

### **32) Optional OD Endorsements**

#### **A) TP Smart Clause for Private Vehicles**

Upon applicability of this clause the extent of coverage as worded in article 19 above, will be extended to also cover the following Loss to the Insured Vehicle and/or Object:

- i) Loss caused by fire, lightning and explosion;

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- ii) Loss caused by burglary, theft and Joyriding (notwithstanding applicability of the general exclusion under section 9f);
- iii) Loss caused by smashing and/or breakage of car windows, windshields and sunroofs due to a sudden external and violent means, not accompanied by any other damage to the Insured Vehicle and/or Object, in which case the Policyholder will not lose his no claim discount;
- iv) Loss caused by earthquake, landslide, volcanic eruption and falling of mountain rocks;
- v) Loss caused by riots and such other disturbances, unless falling within the scope of war perils and terrorist exclusions under section 1 of the general Insurance Policy Conditions;
- vi) Loss caused by aircraft and other aerial devices and/or articles dropped there from, excluding Loss or damage caused by an aircraft to which permission to land had been granted by the Persons Insured;
- vii) Loss caused by a provable and direct collision with a wild, stray animal, in which case only the direct damage from such an event will be payable to the Persons Insured;
- viii) Loss caused by spoilage of car upholstery due to transportation of injured persons in the car;
- ix) Damage caused to the Insured Vehicle and/or Object by an Uninsured Vehicle or a Hit & Run including payments for compensatory damages, which the Person Insured is legally entitled to recover from the owner or driver of the Uninsured Vehicle because of material damage to the Insured Vehicle. Under no circumstances whatsoever will the Company attend any claim in case the police has not been notified by the Persons Insured and subsequently been present at the site immediately after the damage has been discovered and reported to the police;
- x) The cost of replacing license plates, inspection card and the tax card in case the same are lost by one of the above-mentioned Insured Events. Consequential losses or penalties of any kind are excluded from this coverage;
- xi) Damage to parts attached on, to or in the Insured Vehicle and/or Object, not forming part of the standard equipment is covered against Loss falling within the scope of this policy, provided that these parts have been included in the Insured Catalogue Value, but with the exception of image and/or communication equipment with its accessories, unless otherwise specified and agreed to in writing;
- xii) The cost of a temporary substitute vehicle as per article 26 above.

## **B) TP Smart Clause for Commercial Vehicles**

Upon applicability of this clause the extent of coverage as worded in article 19 above, will be extended to also cover the following Loss to the Insured Vehicle and/or Object:

- i) Loss caused by fire, lightning and explosion;
- ii) Loss caused by burglary, theft and Joyriding (not withstanding applicability of the general exclusion under section 9f);
- iii) Loss caused by smashing and/or breakage of car windows, windshields and sunroofs due to a sudden external and violent means, not accompanied by any other damage to the Insured Vehicle and/or Object, in which case the Policyholder will not lose his no claim discount;
- iv) Loss caused by earthquake, landslide, volcanic eruption and falling of mountain rocks;
- v) Loss caused by riots and such other disturbances, unless falling within the scope of war perils and terrorist exclusions under section 1 of the general Insurance Policy Conditions;
- vi) Loss caused by aircraft and other aerial devices and/or articles dropped there from, excluding Loss or damage caused by an aircraft to which permission to land had been granted by the Persons Insured;
- vii) Loss caused by a provable and direct collision with a wild, stray animal, in which case only the direct damage from such an event will be payable to the Persons Insured;
- viii) Loss caused by spoilage of car upholstery due to transportation of injured persons in the car;
- ix) The cost of replacing license plates, inspection card and the tax card in case the same are lost by one of the above-mentioned Insured Events. Consequential losses or penalties of any kind are excluded from this coverage;



### **C) Smart Economy Car**

Upon applicability of this clause the extent of coverage as worded in article 19, 24, 25, 26 and 28 above, will be extended to also cover the following Loss to the Insured Vehicle and/or Object:

- i) Any damage to the Insured Vehicle sustained through an accident (sudden external and violent means) supplement to the OD coverage as per the TP Smart Clause for Private Vehicles;
- ii) Subject to the Insured Vehicle being a brand new ex-showroom vehicle and being declared a Total Loss during its first year of usage, while being insured with the Company, the Total Loss claim will be settled on the basis of 100% of the Insured Catalogue Value, provided that the Policyholder again purchases a brand new ex-showroom vehicle. Salvage will then become the property of the Company. If the New Catalogue Value of the new ex-showroom car is lower than the Insured Catalogue Value, no refund will be given for the difference.
- iii) In the event of the Insured Vehicle as being referred to under ii) above being declared a Total Loss during the second or following years of usage while being insured with the Company the Total Loss claim will be limited to the pre-accident Market Value of the Insured Vehicle based on the regular terms of indemnity as stipulated under the general conditions of the Insurance Policy, as commonly calculated by surveyors within the covered territory.
- iv) If the Insured Vehicle is not a brand new ex-showroom vehicle and in the event of such vehicle being declared a Total Loss following an admissible claim the indemnity payable will be limited to the pre-accident Market Value of the Insured Vehicle based on the regular terms of indemnity as stipulated under the general conditions of the Insurance Policy, as commonly calculated by surveyors within the covered territory.

### **D) Smart Full Value Clause**

Upon applicability of this clause the extent of coverage as worded in article 19, 24, 25, 26 and 28 above, will be extended to also cover the following Loss to the Insured Vehicle and/or Object:

- i) OD coverage as per the Smart Economy Car Clause;
- ii) No deductible will be levied for an OD claim under the Smart Full Value Clause;
- iii) Free PA coverage as set forth in section 4 with Sum Insured as worded under category D (excluding medical expenses and driver) of these Policy Conditions and under the stipulations set forth therein;
- iv) Subject to the Insured Vehicle being a brand new ex-showroom vehicle and being declared a Total Loss during the Smart Full Value period of coverage, the Total Loss claim will be settled on the basis of the New Catalogue Value of the Insured Vehicle within a maximum of 125% of the Insured Catalogue Value, provided that the Policyholder purchases a new vehicle of the same make and model. Salvage will then become the property of the Company. If the New Catalogue Value of the new ex-showroom car is lower than the Insured Catalogue Value, no refund will be given for the difference.
- v) If the Insured Vehicle is being replaced with a new vehicle of different make and/or model due to the manufacturer discontinuing fabrication of the Insured Vehicle, the Total Loss claim will be settled based on the actual purchase price of the new vehicle within a maximum of 125% of the Insured Catalogue Value. Salvage will then become the property of the Company. If the actual purchase price is lower than the Insured Catalogue Value, no refund will be given for the difference.
- vi) If for any reason other than mentioned under v) above the Policyholder decides to replace the damaged Total Loss vehicle with a new vehicle of different make and/or model, the indemnity payable will not be limited to the pre-accident Market Value but the Total Loss claim will be settled based on the actual purchase price of the new vehicle with as maximum amount payable the Insured Catalogue Value. Salvage will then become the property of the Company. If the actual purchase price is lower than the Insured Catalogue Value, no refund will be given for the difference.
- vii) If for any reason whatsoever the Policyholder decides not to replace the damaged Total Loss vehicle, or in the event of the Insured Vehicle being declared a Total Loss after the expiry of the agreed upon Smart Full Value period of coverage, or if the Insured Vehicle is not a new vehicle and in the event of such vehicle being declared a Total Loss following an admissible claim, the amount payable will be limited to the pre-

accident Market Value of the Insured Vehicle based on the regular terms of indemnity as stipulated under the general conditions of the Insurance Policy, as commonly calculated by surveyors within the covered territory.

## SECTION 4: PERSONAL ACCIDENT ("PA") INSURANCE CLAUSE FOR PASSENGERS

SUM INSURED  A  B  C  D  E  F  G  Include Driver  Exclude Driver

Premium incl. Medical Expenses Up to AWG. 2000,-

SUM INSURED	A	B	C	D	E	F	G
DEATH	15.000,-	15.000,-	20.000,-	25.000,-	30.000,-	50.000,-	50.000,-
PERMANENT DISABILITY	50.000,-	75.000,-	100.000,-	125.000,-	150.000,-	150.000,-	250.000,-
PREMIUM EXCL. ANY MEDICAL EXPENSES							
EXCLUDE DRIVER	20,-	30,-	36,-	45,-	55,50	62,50	92,50
INCLUDE DRIVER	30,-	50,-	55,50	69,-	83,50	94,-	139,50
PREMIUM INCL. MEDICAL EXPENSES UP TO AWG. 2000,-							
EXCLUDE DRIVER	32,50	40,-	49,50	58,50	68,-	75,-	105,-
INCLUDE DRIVER	48,50	60,50	74,-	87,-	102,-	112,50	157,50

This extension applies only to authorized non fare paying passengers including the insured driver as referred to in article 13 of these Policy Conditions (as applicable on payment of premium at inception of policy) whilst travelling in the Insured Vehicle.

During the time this PA Insurance Clause is applicable, it is a condition that the person driving the Insured Vehicle holds a valid driving license for the category of the said vehicle and that the person driving the vehicle has not been prohibited by law or the authorities.

In consideration of the Policyholder paying to the Company the premium mentioned in the Policy Certificate, the Company agrees (subject to the terms and conditions contained in the Policy Conditions) that, if after payment of the premium at any time during the Period of Insurance, the Insured Person(s) shall sustain any bodily injury resulting solely and directly from an Insured Event whilst the passenger(s) is (are) mounting or dismounting from or travelling in the Insured Vehicle and also whilst engaging in emergency repairs alongside the road of the said vehicle or assisting thereby, then the Company shall pay the Insured Person(s) or their legal personal representative(s), as the case may be, the sum or sums hereinafter set forth, that is to say:

- (a) If such injury shall be the sole and direct cause of the death of the Insured Person, the compensation stated in the Schedule at number 1 above.
- (b) If such injury shall be the sole and direct cause of the total and irrecoverable loss of:
  - i) sight of both eyes or the actual loss by physical separation of two entire hands or two entire feet or one entire hand and one entire foot, or of such loss of sight of one eye and such loss of one entire hand or one entire foot, the compensation stated in the Schedule at number 2 above.
  - ii) Loss of two hands or two feet, or of one hand or one foot, or of such loss of sight of one eye and such loss of use of one hand or one foot, the compensation stated in the Schedule at number 2 above.
- (c) If such injury shall within twelve calendar months of its occurrence be the sole and direct cause of the total and irrecoverable loss of:

- i) the sight of one eye, or of the actual loss by physical separation of one entire hand or of one entire foot, fifty percent (50%) of the compensation stated in the schedule at number 2 above.
- ii) total and irrecoverable loss of use of hand or a foot without physical separation, fifty percent (50%) of the compensation stated in the Schedule at number 2 above.

NOTE: For the purpose of Sub Clause (b) and Sub Clause (c) above, 'physical separation' of a hand means separation at or above the wrist and of the foot at or above the ankle respectively.

d) If such injury shall as a direct consequence thereof, immediately, permanently, totally and absolutely, disable the Insured Person from engaging in any employment or occupation of any description whatsoever, then a lump sum equal to hundred percent (100%) of the limit of compensation stated in the Schedule at number 2 above.

e) If such injury shall within twelve calendar months of its occurrence be the sole and direct cause of the total and/or partial and irrecoverable loss of use or of the actual loss by physical separation of the following, then the percentage as indicated below of the limit of compensation stated in the Schedule at number 2 above shall be payable:

			<b>Percentage of Capital</b>
			<b>Sum Insured</b>
<b>i)</b>	Loss of toes - all great,		20
	Both phalanges great		5
	One phalanx other than great		2
	if more than one toe lost each		1
<b>ii)</b>	Loss of hearing - both ears		50
<b>iii)</b>	Loss of hearing - one ear		15
<b>iv)</b>	Loss of four fingers and thumb of one hand		40
<b>v)</b>	Loss of four fingers		35
<b>vi)</b>	Loss of thumb - both phalanges		25
<b>vii)</b>	Loss of index finger		
	three phalanges		10
	two phalanges		8
	one phalanx		2
<b>viii)</b>	Loss of middle finger		
	three phalanges		6
	two phalanges		4
	one phalanx		2
<b>ix)</b>	Loss of ring finger		
	three phalanges		5
	two phalanges		4
	one phalanx		2
<b>x)</b>	Loss of little finger		
	three phalanges		4
	two phalanges		3
	one phalanx		2



<b>xi)</b>	Loss of metacarpals		
	first or second (additional)		3
	third, fourth or fifth (additional)		2
<b>xii)</b>	Any other permanent partial disablement		(Percentage as assessed by the Company's Panel Doctor)/Medical Board

f) In case of Insured Persons 70 years or older or below 16 years, the maximum benefit payable under Sub Clause (a) of this insurance shall not exceed 50% of the limit of compensation stated in the Schedule at number 1 above.

g) In case of Insured Persons 70 years or older, the amount payable under Sub Clauses (b), (c), (d) and (e) shall stand substituted by an amount not exceeding 50% of the limit of compensation otherwise payable under this PA Insurance Clause to such Insured Person.

### EXCEPTIONS

Provided always that in addition to section 1, 2 and 3 of the Policy Conditions, the Company shall not be liable under this PA Insurance Clause for:

1. Compensation under more than one of the foregoing Sub Clauses in respect of the injuries sustained as a consequence of an Insured Event and/or the disablement arising there from.
2. Any other payment under this PA Insurance Clause after a claim under one of the Sub Clauses (a), (b), (c), (d) or (e) has been admitted and become payable.
3. Any payment, in case of more than one claim under this PA Insurance Clause, during any one Period of Insurance by which the maximum liability of the Company in that period would exceed the maximum sum payable under any Sub-Clause of this Policy.
4. Any payment under any of the Sub Clauses (a), (b), (c), (d) or (e) under this PA Insurance Clause if a claim for the same Loss has been admitted and becomes payable under any separate motor policy or any other section of the Policy Conditions of which this PA Insurance Clause forms part.
5. Payment of compensation in respect of Death, Injury or Disablement of the Person Insured (a) from intentional self-injury, suicide or attempting suicide, (b) whilst under the influence of intoxicating liquor or drugs (d) directly or indirectly caused by venereal disease(s), AIDS or insanity, (e) arising or resulting from the Person Insured committing any breach of law with criminal intent.
6. Payment of compensation in respect of Death, Injury or Disablement of the Insured Person due to or arising out of or directly or indirectly connected with or traceable to: War, Invasion, Act of foreign enemy, Hostilities (whether war be declared or not), Civil War, Rebellion, Revolution, Insurrection, Mutiny, Military or Usurped Power Seizure, Capture, Arrests, Restraints and Detainment by all kings, princes and people of whatsoever nation, condition or quality.
7. Payment of compensation in respect of death of, or bodily injury or any disease of illness to the Insured Person:
  - (a) directly or indirectly caused by or contributed to by or arising from ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of this exception, combustion shall include any self sustaining process of nuclear fission.
  - (b) directly or indirectly caused by or contributed to by or arising from nuclear weapon material. Provided also that the due observance and fulfillment of the terms and conditions of this Insurance Policy (which conditions and all endorsements hereon are to be read as

part of this Insurance Policy) shall so far as they relate to any thing to be done by the Insured be a condition precedent to any liability of the Company under this Insurance Policy.

### **SPECIAL CONDITIONS**

1. Upon the happening of any Occurrence which may give rise to a claim under this PA Insurance Clause, written notice with full particulars must be given to the Company immediately. In case of death, written notice of the death must, unless reasonable cause is shown, be so given before internment, cremation and in any case, within one calendar month after the death, and in the event of loss of sight or amputation of limbs, written notice thereof must also be given within one calendar month after such loss of sight or amputation.
2. Proof satisfactory to the Company shall be furnished of all matters upon which a claim is based. Any Medical or other agent of the Company shall be allowed to examine the Insured Person on the occasion of any alleged injury or disablement when and so often as the same may reasonably be required on behalf of the Company and in the event of death, to make a post mortem examination of the body of the deceased Person Insured. Such evidence as the Company may from time to time require shall be furnished and a post-mortem examination report, if necessary, be furnished within the space of fourteen days after demand in writing and in the event of a claim in respect of loss of sight the Insured Person shall undergo at the Insured Person's expense such operation or treatment as the Company may reasonably deem desirable. No sum payable under this policy shall carry interest.
3. The Company shall not be liable to make any payment under this PA Insurance Clause in respect of any claim if such claim be in any manner fraudulent or supported by any fraudulent statement or device, whether by the Insured Person or by any other person on behalf of the Insured Person, nor if the Insurance Policy has been granted or continued in consequence of any material misstatement or the non-disclosure of any material information by or on behalf of the Insured Person.
4. (a) The Insured Person shall give immediate notice to the Company of any change in the business or occupation of the Insured Person.  
  
(b) The Policyholder and/or Insured Person shall, on the tendering of any premium for the renewal of this Insurance Policy, give notice in writing to the Company of any disease, physical defect or infirmity with which he or she has become affected since inception of the preceding Period of Insurance.
5. This Insurance Policy may be renewed by mutual consent every year and in such event the renewal premium shall be paid to the Company on or before the date of expiry of the Insurance Policy or of the subsequent renewal thereof. The Company shall not, however, be bound to give notice that such renewal premium is due.
6. The Company may at any time, by notice in writing, terminate this Insurance Policy, provided that the Company shall in that case return to the Policyholder the then last paid premium less a pro rata part thereof for the portion of the current Period of Insurance which shall have expired. Such notice shall be deemed sufficiently given if posted and addressed to the Policyholder at the address last registered in the Company's books and shall be deemed to have been received by the Policyholder at the time when the same would be delivered in the ordinary course of post. OR the Insurance Policy may be canceled at any time by the Policyholder by a notice in writing under a certificate of posting. Such notice shall be deemed to be effective from the date of dispatch of the same by the Policyholder. PROVIDED no claim has arisen under the within mentioned Insurance Policy prior to the dispatch of such notice by the Policyholder to the Company, the Policyholder would be entitled to the return of premium, less premium at the Company's short period rates for the period the Insurance Policy has been in force.
7. The Company shall not be bound to take notice or be affected by any notice of any trust, charge, lien, assignment or other dealing with or relating to this Insurance Policy but the



receipt of the insured or his legal personal representatives shall in all cases be an effective discharge to the Company.

8. This Insurance Policy shall be void if and whilst the Insured Vehicle participates in any organized racing or speed testing or pace making or reliability trials of any kind.
9. This Insurance Policy will be valid on any other vehicle of equally good order and maintenance replacing temporarily the Insured Vehicle stated on the Policy Certificate in the event of repair or overhaul of the said vehicle, provided always that prior communication is made of such changes to the Company.



Undersigned, \_\_\_\_\_, acknowledges to have received a copy of The New India Assurance Company Ltd. Motor Vehicle Policy Conditions, version 2.1 October 2021 (24 pages). I understand that the latter version 2.1 October 2021 replaces any prior verbal and written communication regarding the motor conditions of insurance and/or endorsement(s). I further understand that receipt of these policy conditions constitutes a legal notification of the contents, and that it is my responsibility to become familiar with the provisions contained therein.

Oranjestad, Aruba

Date: \_\_\_\_\_ 202\_\_

Signature: \_\_\_\_\_