

# CONTRACT

## FOR TOWING SERVICES

This Contract for Vehicle Towing services is entered into by and between ProTow, Inc. Towing (herein referred to as "Contractor"), and the City of Columbus, Department of Recreation and Parks (herein referred to as "City").

### WITNESSETH

WHEREAS, the City has a need for towing of unauthorized, privately owned vehicles parked in violation of posted restrictions within Recreation and Parks facilities and parks; and

WHEREAS, the Contractor has the necessary experience and expertise to provide said service; and

WHEREAS, this Contract is authorized by Ordinance No. 2418-2013, passed by Columbus City Council on \_\_\_\_\_; and

NOW, THEREFORE, in consideration of the mutual promises as hereinafter set forth, the parties agree as follows:

### ENTIRE AGREEMENT

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof. Understandings, agreements, representations, or warranties not contained in this Contract, or as written amendment hereto, shall not be binding on either party. Except as provided herein, no alteration of any terms, conditions, delivery, price, quality, or specifications of this Contract shall be binding on either party without the written consent of both parties.

1. **Contract Term**

The initial term of this Contract shall be from November 1<sup>st</sup> 2013 to December 31<sup>st</sup> 2015. This Contract shall not automatically renew.

2. **Maximum Obligation**

The maximum amount to be paid under any purchase order associated with this Contract shall be \$0.00. There is no cost associated with this contract between ProTow Inc. Towing and the City of Columbus. ProTow Towing will be paid directly by owner of vehicle that was towed after parking illegally.

3. **Pricing and Scope of Services**

The Contractor agrees to perform the Scope of Services as set forth **ON ATTACHED EXHIBIT A**.

\*Contract is NOT valid if the Scope of Services is NOT attached.

No other costs, rates, or fees shall be payable to the Contractor for services performed hereunder. The terms and conditions specified in this Contract constitute the entire contract governing the purchase of services by the City from the Contractor, and shall supersede any terms and conditions which may accompany Contractor's invoice/bid/estimate. Any and all verbal representations are superseded by this Contract. The terms of this Contract shall prevail over any conflicting or deficient terms or conditions listed in any attachments from Contractor.

4. **Equal Opportunity Clause**

Contractor agrees to abide by all of the terms, conditions and requirements set forth in Columbus City Code Section 3909.01, Equal Opportunity Clause. Failure or refusal of a Contractor or Subcontractor to comply with the provisions of Article I, Title 39, may result in cancellation of this Contract.

5. **Taxes**

Federal or State taxes are not to be included on invoices for the described services. Contractor will be provided an exemption certificate, if needed.

6. **City's Contract Administrator/Contract Administration**

Tina Mohn will manage the Contract on behalf of the City and will be the principal point of contact for the City concerning the Contractor's performance under this Contract.

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law shall only be effective if it is in writing, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Services as first-class certified mail, postage prepaid and return receipt requested, to the parties at the following addresses:

(List names and addresses of City and Contractor contact persons below.)

Tina Mohn  
City of Columbus, Recreation and Parks  
1111 E. Broad St., Suite 101  
Columbus, Oh. 43205

ProTow Inc.  
30 W. Lawn Avenue  
Columbus, Ohio 43207

7. **Contractor as an Independent Contractor**

The Contractor shall be and shall remain an Independent Contractor with respect to all services performed hereunder and he/she/it agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for Social Security, unemployment insurance or old age retirement benefits, pensions or annuities now or hereafter imposed under any state or federal law which are measured by the wages, salaries or other remunerations paid to the Contractor or persons employed by the Contractor for work performed under the terms of this Agreement and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now, or hereafter may be, issued or promulgated under said respective laws.

8. **Applicable Law, Remedies**

This Agreement shall be governed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Contractor arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within the County of Franklin, State of Ohio.

9. **Payment/Invoice Submittal**

All payments to Shamrock Towing Inc. will be made from the private vehicle owner directly to Shamrock Towing. City shall not be obligated to pay Shamrock Towing, Inc. for installation of signs or towing of vehicles in any way.

10. **Modifications**

No modification, amendment, alteration, addition or waiver of any section or condition of this Contract shall be effective or binding unless it is in writing and signed by an authorized representative of the City and the Contractor and approved by the appropriate City authorities.

11. **Contract Termination**

If either the City or the Contractor violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party shall give the other party (the "responsible party") written notice of such failure or violation. The responsible party will correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed. If the failure or violation is not corrected, this Contract may be terminated immediately by written notice from the aggrieved party. The option to terminate shall be at the sole discretion of the aggrieved party.

When it is in the best interest of the City, the City may terminate this Contract, in whole or in part by providing seven (7) calendar days written notice to the Contractor prior to the effective date of termination. If this Contract is so terminated, the City is liable only for payments required by the terms of this Contract for services received and accepted by the City.

12. **Nonexclusive Remedies**

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under the law.

13. **Survivorship**

All services executed pursuant to the authority of this Contract shall be bound by all of the terms, conditions, prices discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Contract, or any extension thereof. Further, the terms, conditions, and warranties contained in this Contract that by their sense in context are intended to survive this completion of the performance, cancellation or termination of this Contract, shall so survive.

14. **Save Harmless**

Contractor shall protect, indemnify and save the City harmless from and against any damage, cost, or liability, including reasonable attorneys' fees, resulting from claims for any or all injuries to persons or damage to property arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, agents, or Subcontractors.

15. **Severability**  
If any term or condition of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions for the Contract are declared severable.
16. **Assignment**  
This Contract may not be assigned or otherwise transferred to others by the Contractor without the prior written consent of the City. If this Contract is so assigned, it shall inure to the benefit of and be binding upon any respective successors and assigns (including successive, as well as immediate, successors and assignees) of the Contractor.
17. **Authority to Bind**  
The signatories to this Contract represent that they have the authority to bind themselves and their respective organizations to this Contract.
18. **Worker's Compensation**  
The Contractor shall comply with all Workers' Compensation laws of the State of Ohio. **Proof of coverage shall be attached to this Contract AS EXHIBIT B.**
19. **Insurance/Indemnity**  
Contractor shall carry at least the minimum amounts listed below of Commercial Liability Insurance (Bodily Injury and Property Damage) naming the City as an additional insured. **Contractor must attach a copy of the Certificate of Insurance to this Contract AS EXHIBIT C:**
- |                                 |             |                                   |             |
|---------------------------------|-------------|-----------------------------------|-------------|
| <b>Bodily Injury Liability:</b> |             | <b>Property Damage Liability:</b> |             |
| Each Person                     | \$500,000   | Each Accident                     | \$500,000   |
| Each Accident                   | \$1,000,000 | All Accidents                     | \$1,000,000 |
20. **Campaign Contributions**  
Contractor hereby certifies the following: that it is familiar with Ohio Revised Code ("O.R.C.") Section 3517.13; that it is in full compliance with Divisions (I) and (J) of that Section; that it is eligible for this contract under the law and will remain in compliance with O.R.C. Section 3517.13 for the duration of this contract and for one year thereafter.
21. **City Income Taxes**  
Contractor hereby further agrees to withhold and pay all city income taxes due or payable under the provisions of Chapter 361, Columbus City Codes, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold and pay any such city income taxes due under said chapter for services performed under this Contract. If it has been determined by the Columbus Income Tax Division that Contractor, or any of its subcontractors, owes city income taxes, the Contractor agrees that the City may withhold the amount due to the City from any amount due to the Contractor for services performed under this Contract notwithstanding paragraph 9 hereinabove.

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year written below.

**APPROVED AS TO FORM**  
**EXHIBITS A, B AND C MUST BE ATTACHED HERETO**

CITY OF COLUMBUS

*Richard C. Pfeiffer, Jr.*  
\_\_\_\_\_  
Richard C. Pfeiffer, Jr.      11/19/13  
City Attorney                      Date

(Name of City Department entering into Contract) \_\_\_\_\_  
*[Signature]*      11/16/13  
\_\_\_\_\_  
(Name and Title of Signatory)      Date  
DIRECTOR

CONTRACTOR

*[Signature]*      10/23/13  
\_\_\_\_\_  
Signature                      Date  
*James Whittredge, President Pro Tem Inc*

Please list remit address below:

30 W. Lawn Avenue  
Columbus, Ohio 43207 \_\_\_\_\_

Printed Name and Title  
Federal ID Number: 06-1825828 \_\_\_\_\_

James Whitledge President  
James Whitledge

10/17/13

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CONTRACT SIGNATURE AFFIDAVIT

(Must be completed when the individual signing the Contract is NOT an Officer or Member of the Company.)

STATE OF: Ohio

COUNTY OF: Franklin

James Whittledge II being duly sworn, deposes and says that he/she is  
Secretary of Pro-Tow Inc a Corporation, LLC, or LLP organized and existing under and by  
(Title) (Company Name)

virtue of the laws of the State of Ohio, and having its principal office at

Columbus, OH 43207  
City, State, Zip Code

Affiant further says that he/she is familiar with the records, minute books and by-laws of

Pro-Tow Inc.  
(Company Name)

Affiant further says that James Whittledge is President  
(Name of Person Signing Contract) (Title)

Of the Company and is duly authorized to sign the Contract for: 2418-2013

For said Company by virtue of by-laws  
(State whether the provision of by-laws or a resolution of the Board of Directors. If resolution, give date of adoption.)

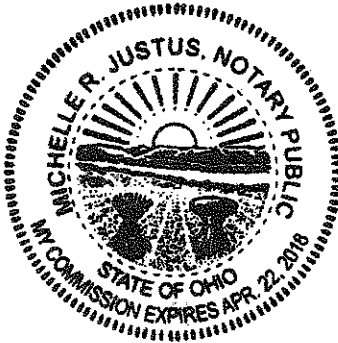
James Whittledge  
Signature of Affiant\*\*

\*\* AFFIANT MUST BE SOMEONE OTHER THAN THE INDIVIDUAL SIGNING THE CONTRACT.\*\*

Sworn to before me and subscribed in my presence this 23rd day of October 2013

Michelle Renee Justice  
Notary Public

My Commission Expires: 4-22-2018



**EXHIBIT A**

**IMPOUND AUTHORIZATION**

The City of Columbus, Recreation and Parks Department ("City"), pursuant to Ordinance No. 2418-2013, hereby authorizes ProTow to remove unattended vehicles from the lots of City parks and facilities left after the park/facility has closed and vehicles parked in violation of posted restrictions. ProTow is authorized to install towing signs at, and to remove vehicles from, the following parks/facilities:

- Goodale Park
- Tuttle Park
- Golden Hobby Shop lot
- Blackburn Park
- Casto Park
- Cooper Park
- Big Run Park

This list may be amended by the City as needed.

All costs associated with towing will be paid by the owner of the towed vehicle in order to recover vehicle. Vehicles will be towed at no cost to the City of Columbus.

ProTow must install signs that provide notice of parking restrictions. Signs must also state that vehicles parked in violation of such restrictions shall be towed. Signage must include the following information and must receive approval by the Director prior to installation.

- The hours that vehicles will be towed
- Cars not parked in a designated parking spot will be towed
- Vehicle recovery location and instructions to retrieve vehicle
- Associated costs for recovery
- Recovery location and phone number

Wendy S. Booles (01/22/13 2:45 PM)  
**Comment [1]:** It was on the draft you sent me... we can remove it.

EXHIBIT A1  
SIGN LAYOUT AND WORDING

10/17/13

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EXHIBIT B  
WORKER'S COMPENSATION



EXHIBIT C  
INSURANCE

10/17/13

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# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
10/23/2013

PRODUCER  
Phone: 740-965-4472  
**Payne & Brown Ins. Agency, Inc**  
P.O. Box 356  
Sunbury, OH 43074

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED  
**Pro Tow, Inc. c/o Jim Whittredge**  
30 Lawn Avenue  
Columbus, OH 43207

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: <b>United Ohio Ins. Co.</b>	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>Garagekeepers</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	BP0007512	08/31/2013	08/31/2014	EACH OCCURRENCE	\$ 1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
						MED EXP (Any one person)	\$ 5,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ 2,000,000
A		<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	CPP0007423	08/31/2013	08/31/2014	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN EA ACC	\$
						AUTO ONLY: AGG	\$
A		<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	CX0000683	08/31/2013	08/31/2014	EACH OCCURRENCE	\$ 2,000,000
						AGGREGATE	\$ 2,000,000
							\$
							\$
							\$
A		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	BP0007512	08/31/2013	08/31/2014	WC STATU-TORY LIMITS	OTH-ER
						E.L. EACH ACCIDENT	\$ 1,000,000
						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
A		<b>OTHER</b> On Hook	BP0007512	08/31/2013	08/31/2014	On Hook	200/500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

## CERTIFICATE HOLDER

**Columbus Recreation & Parks Department**  
1111 East Broad Street  
Columbus, OH 43205

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*Robert J. Tompa*

(RJT)



**Bureau of Workers'  
Compensation**

30 W. Spring St  
Columbus, OH 43215

### **Certificate of Premium Payment**

This certifies the employer listed below has paid into the Ohio State Insurance Fund as required by law. Therefore, the employer is entitled to the rights and benefits of the fund for the period specified. For more information, call 1-800-OHIOBWC.

This certificate must be conspicuously posted.

Policy No. and Employer

Period Specified Below

1191228

07/01/2013 THRU 02/28/2014

PRO TOW INC  
PRO TOW  
30 W LAWN AVE  
COLUMBUS OH 43207-2440

  
Administrator/CEO

ohiobwc.com

You can reproduce this certificate as needed.

### **Ohio Bureau of Workers' Compensation**

#### **Required Posting**

Effective Oct. 13, 2004, Section 4123.54 of the Ohio Revised Code requires notice of rebuttable presumption. Rebuttable presumption means an employee may dispute or prove untrue the presumption (or belief) that alcohol or a controlled substance not prescribed by the employee's physician is the proximate cause (main reason) of the work-related injury.

The burden of proof is on the employee to prove the presence of alcohol or a controlled substance was not the proximate cause of the work-related injury. An employee who tests positive or refuses to submit to chemical testing may be disqualified for compensation and benefits under the Workers' Compensation Act.



**Bureau of Workers'  
Compensation**

You must post this language with the certificate of premium payment.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## PREMIER BUSINESS AUTO

### Supplemental Endorsement

(No coverage is provided by this Summary. Actual coverage is in the form.)

#### SUMMARY OF COVERAGE AND LIMITS

<u>Page</u>	<u>Coverage</u>	<u>Limit</u>
3	Accidental Discharge Of An Air Bag.....	\$ 2,500
<del>3</del>	Additional Insureds - Blanket (Primary and Not Contributory) .....	
3-4	Broadened Transportation Expense.....	\$75 a day \$2,250 maximum
4	Business Income And Extra Expense .....	90 days
4	Care, Custody, Or Control Extension .....	\$ 1,000
4	Deductible -	
4	Loss To Two (Or More) Covered Autos In One Accident.....	
5	Losses In One Event Under Multiple Policies We Issue .....	
5	Employee As Insured- Autos Hired In The Employee's Name.....	
5	Employees As Insureds - Autos Not Owned, Hired, Or Borrowed .....	
5	Fellow Employee Exclusion Amendment .....	
5	Fire Department Service Charge.....	\$ 1,500
5	Glass Repair - Waiver Of Deductible .....	
5-6	Hired Car Physical Damage Coverage - Supplemental .....	\$ 75,000
6	Knowledge Of Accident, Claim, Suit, Or Loss .....	

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SUMMARY OF COVERAGE AND LIMITS (Cont'd.)

<u>Page</u>	<u>Coverage</u>	<u>Limit</u>
6	Loan Or Lease Gap Coverage .....	
6	Locksmith Services.....	\$ 100
6-7	Newly Acquired Or Formed Organizations > 50% .....	180 days
7	Personal Effects .....	\$ 750
7	Supplementary Payments Amended -	
	Bail Bonds .....	\$ 5,000
	Loss Of Earnings (per day) .....	\$ 500
7	30 Day Worldwide Coverage Territory .....	
7	Towing And Labor	
	Private Passenger Autos and Light Trucks.....	\$ 75
	Medium Trucks.....	\$ 150
7	Unintentional Failure To Disclose Hazards .....	
8	Waiver Of Transfer Of Rights Of Recovery Against Others To Us .....	

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## PREMIER BUSINESS AUTO

### SUPPLEMENTAL COVERAGE ENDORSEMENT

The Supplemental Coverages and Extensions provided by this endorsement amend the Business Auto Coverage Form, CA 00 01.

These Coverages and Extensions are subject to all the terms, deductibles, exclusions, and conditions applicable to this policy, except where otherwise provided.

#### A. Accidental Discharge Of An Airbag

Section III - Physical Damage Coverage, Paragraph B., Exclusions, is amended by adding the following:

7. If you have purchased Comprehensive Coverage or Collision Coverage under this policy, Exclusion B.3.a. pertaining to mechanical or electrical breakdown does not apply to the accidental discharge of an airbag. This coverage for airbags is excess over any other collectible insurance or warranty.

Paragraph D., Deductible applies to this coverage.

Our Limit of Liability is \$2,500.

#### B. Additional Insureds

Section II - Liability Coverage, Paragraph A.1. is amended to add the following:

##### 1. Who Is An Insured

- d. Any person or organization with whom you agreed, because of a written contract, agreement, or permit, to provide insurance such as is afforded under this Coverage Part, but only with respect to your ownership, maintenance, or use of a covered "auto". This provision only applies if the written contract or agreement has been executed or permit issued prior to the "bodily injury" or "property damage".

This coverage shall be primary and not contributory with respect to the person or organization included as an "insured" under this section. Any other insurance that a person or organization has shall be excess and not contributory with respect to this insurance, but this provision only applies if it is required in the written contract, agreement, or permit identified in this section, and is permitted by law.

#### C. Broadened Transportation Expense

Section III - Physical Damage Coverage, Paragraph A.4.a., is deleted and replaced by the following:

##### a. Transportation Expense

We will pay up to \$75 per day to a maximum of \$2,250 for temporary transportation expense incurred by you because of any "losses" to covered "autos", but only if the covered "autos" carry the coverages and meet the requirements described in (1) or (2) below:

- (1) We will pay the above temporary transportation expense for total theft of a covered "auto" if you carry either Comprehensive or Specified Causes of Loss Coverage. We will only pay for such expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".
- (2) For "loss" other than the total theft of a covered "auto" under Comprehensive Coverage or Specified Causes of Loss Coverage, or for any "loss" under Collision Coverage to a covered "auto", we will pay the above temporary transportation expense if the "loss" to that covered "auto" renders it inoperable. We will only pay for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the number of days reasonably required to repair or replace the covered "auto", or 30 days.

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