

2005

# Liberty Mutual Insurance Company v. Burdene Shores and Unior Shores : Addendum to Appellant Burdene Shores' Brief

Utah Court of Appeals

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Mitchel T. Rice; Joseph E. Minnock; Morgan, Minnock, Rice & James; Attorneys for Liberty Mutual Insurance Company; counsel for appellee.

C. Peter Whitmer; Attorney for Burdene Shores; Ronald W. Ady; Attorney for Unior Shores; attorney for Appellants.

---

## Recommended Citation

Brief of Appellant, *Liberty Mutual Insurance Company v. Burdene Shores*, No. 20050291 (Utah Court of Appeals, 2005).  
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IN THE UTAH COURT OF APPEALS

Liberty Mutual Insurance Company,

Plaintiff and Appellee,

vs.

Burdene Shores and Unior Shores,

Defendants and  
Appellants.

**ADDENDUM TO APPELLANT  
BURDENE SHORES'  
BRIEF**

No. 20050291-CA

Fourth District Court, American Fork  
Civil No. 050100099

**ADDENDUM TO BRIEF OF APPELLANT**

**BURDENE SHORES**

**Counsel for Appellee:**

Mitchel T. Rice  
Joseph E. Minnock  
Morgan, Minnock, Rice & James, L.C.  
136 S Main St, 8th Flr  
Salt Lake City, Utah 84111  
Attorneys for Liberty Mutual Insurance  
Company

**Counsel for Appellants:**

C. Peter Whitmer  
P.O. Box 434  
Pleasant Grove, Utah 84062  
Phone: 801-809-6319  
FAX: 801-796-8726  
Attorney for Burdene Shores.

Ronald W Ady  
10 W 100 South, Suite 425  
Salt Lake City, Utah 84101  
Attorney for Unior Shores

FILED  
UTAH APPELLATE COURT  
AUG 22 2005

IN THE UTAH COURT OF APPEALS

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Liberty Mutual Insurance Company,

Plaintiff and Appellee,

vs.

Burdene Shores and Unior Shores,

Defendants and Appellants.

---

**ADDENDUM TO APPELLANT  
BURDENE SHORES'  
BRIEF**

No. 20050291-CA

Fourth District Court, American Fork  
Civil No. 050100099

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**ADDENDUM TO BRIEF OF APPELLANT**

**BURDENE SHORES**

Counsel for Appellee:

Mitchel T. Rice  
Joseph E. Minnock  
Morgan, Minnock, Rice & James, L.C.  
136 S Main St, 8th Flr  
Salt Lake City, Utah 84111  
Attorneys for Liberty Mutual Insurance  
Company

Counsel for Appellants:

C. Peter Whitmer  
P.O. Box 434  
Pleasant Grove, Utah 84062  
Phone: 801-809-6319  
FAX: 801-796-8726  
Attorney for Burdene Shores,

Ronald W Ady  
10 W 100 South, Suite 425  
Salt Lake City, Utah 84101  
Attorney for Unior Shores

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**ORDER AND FINAL JUDGMENT OF JUDGE PULLAN**

Dismissing Burdene Shores' Bad Faith Counterclaim

Dated: August 27, 2004

Record on Appeal, pages 230 through 225

Fourth District Court  
of Utah  
ORIGINAL  
8/27/04 TK Deputy

Mitchel T. Rice, No. 6022  
MORGAN, MINNOCK, RICE & JAMES, L.C.  
Kearns Building, Eighth Floor  
136 South Main Street  
Salt Lake City, Utah 84101  
Telephone: (801) 531-7888  
Fax number: (801) 531-9732

Attorneys for Plaintiff Liberty Mutual Insurance Company

---

IN THE FOURTH JUDICIAL DISTRICT COURT  
IN AND FOR UTAH COUNTY, STATE OF UTAH

---

LIBERTY MUTUAL INSURANCE  
COMPANY,

Plaintiff,

vs.

BURDENE SHORES and  
UNIOR SHORES,

Defendants.

ORDER AND FINAL JUDGMENT TO  
DISMISS DEFENDANT BURDENE  
SHORES' COUNTERCLAIM OF BAD  
FAITH

Civil No. 040400497  
Honorable Derck Pullan

---

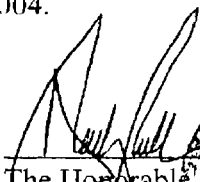
THIS MATTER is before the Court on a Motion to Dismiss Count II of Defendant  
Burdene Shores' counterclaim for bad faith against Plaintiff Liberty Mutual Insurance Company,  
with Mitchel T. Rice appearing for Plaintiff and C. Peter Whitmer appearing for Defendant  
Burdene Shores.

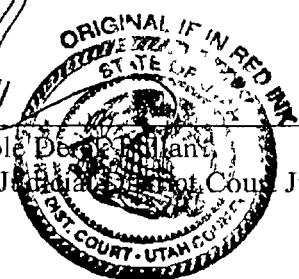
After reading Plaintiff's Motion to Dismiss, the Memoranda in Support thereof, Defendant's Memorandum in Opposition thereto, and after considerations of oral argument from both Counsel, the Court hereby orders and presents its findings and conclusions as follows:

1. The Court finds that on September 9, 2003, Burdene Shores was involved in an automobile accident in which her husband, Unior Shores, was driving; Mrs. Shores allegedly sustained personal injuries in the collision.
2. The Court finds that Mr. and Mrs. Shores are named insureds on an insurance policy issued by Plaintiff which provides liability coverage for the automobile that the Shores were riding in at the time of the accident.
3. The Court finds that Mrs. Shores is suing her husband in a separate action for negligent driving in an effort to collect benefits from the Liberty Mutual insurance policy.
4. The Court finds that Mrs. Shores is seeking recovery under the liability coverage of the insurance policy.
5. The Court finds that the present action shares facts similar to those in *Sperry v. Sperry*, 990 P.2d 381 (Utah 1999), and that this Utah Supreme Court case provides the rule of law in the instant matter.
6. The Court finds that Mrs. Shores' right to recovery stems from the liability coverage extended to Mr. Shores under the insurance policy and not her own coverage.

7. For these reasons, the Court concludes that Mrs. Shores is properly considered a third-party to the insurance contract for purposes of this suit.
8. The Court concludes that because Mrs. Shores is considered a third party to the insurance contract, there is no privity of contract between she and Liberty Mutual. As a result, Liberty Mutual owes no duty of good faith and fair dealing to Mrs. Shores.
9. The Court concludes that because Liberty Mutual owes no duty of good faith and fair dealing to Mrs. Shores, she cannot bring an action for bad faith against Liberty Mutual.
10. Based on all of the reasons cited above, and the reasons set forth in Plaintiff's Memoranda in Support of Motion to Dismiss, the Court hereby grants Plaintiff Liberty Mutual Insurance Company's Motion to Dismiss Count II of Defendant Burdene Shores' counterclaim for bad faith. The counterclaim for bad faith is hereby dismissed with prejudice and on the merits as to Defendant Burdene Shores.

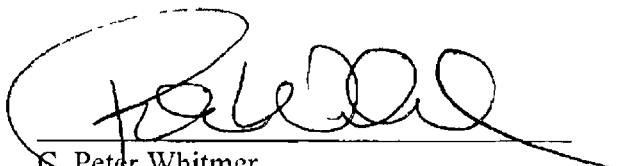
DATED this 27 day of August, 2004.

  
The Honorable Debra Pollant  
Utah Fourth Judicial District Court Judge



ORIGINAL IF IN RED INK  
JUL 27 2004  
STATE OF UTAH  
CLERK OF COURT  
FOURTH JUDICIAL DISTRICT COURT - UTAH COUNTY

APPROVED AS TO FORM:

  
C. Peter Whitmer  
Attorney for Defendant Burdene Shores

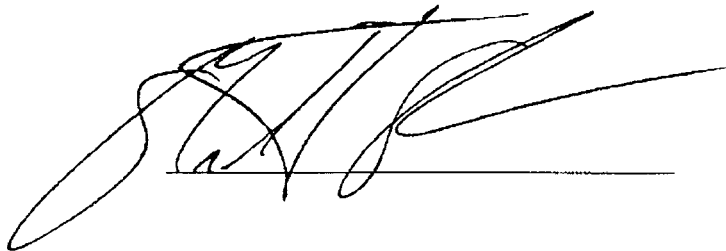


CERTIFICATE OF MAILING

I do hereby certify that I did cause a true and correct copy of the foregoing ORDER AND FINAL JUDGMENT TO DISMISS DEFENDANT BURDENE SHORES' BAD FAITH COUNTERCLAIM, to be mailed, postage prepaid, to the following this 19 day of August, 2004:

C. Peter Whitmer  
P. O. Box 434  
Pleasant Grove UT. 84062

Ronald Ady  
10 West 100 South, Suite 425  
Salt Lake City, UT 84101

A handwritten signature in black ink, appearing to be "C. Peter Whitmer", written over a horizontal line.

**ORDER AND FINAL JUDGMENT OF JUDGE PULLAN**

Granting Liberty Mutual's Motion for Summary Judgment,

Denying Further Discovery, and

Dismissing the Remaining Counterclaims of the Shores

Dated: January 21, 2005

Record on Appeal, Pages 443 through 436

ORIGINAL

IN  
COURT  
AMERICAN FORK DEPT 1

AM.

LIBERTY  
MUTUAL  
INSURANCE  
COMPANY

2005 JAN 24 A 8:31

2005 JAN 12 P 10:20

Mitchel T. Rice, No. 6022  
Joseph E. Minnock, No. 6281  
MORGAN, MINNOCK, RICE, & JAMES, L.C.  
Kearns Building, Eighth Floor  
136 South Main Street  
Salt Lake City, Utah 84101  
Telephone: (801) 531-7888  
Fax number: (801) 531-9732

Attorneys for Plaintiff Liberty Mutual Insurance Company

---

IN THE FOURTH JUDICIAL DISTRICT COURT

IN AND FOR UTAH COUNTY, AMERICAN FORK DEPARTMENT, STATE OF UTAH

---

LIBERTY MUTUAL INSURANCE  
COMPANY,

Plaintiff,

vs.

BURDENE SHORES and  
UNIOR SHORES,

Defendant.

ORDER AND FINAL JUDGMENT  
GRANTING PLAINTIFF LIBERTY  
MUTUAL INSURANCE COMPANY'S  
MOTION FOR SUMMARY JUDGMENT  
ON DECLARATORY JUDGMENT  
ACTION, AND DENYING DEFENDANT  
BURDENE SHORES' RULE 56(f)  
MOTION

---

UNIOR SHORES,

Counterclaim Plaintiff,

vs.

LIBERTY MUTUAL INSURANCE  
COMPANY,

Counterclaim Defendant.

Civil No. 050100099  
Honorable Derek Pullan

00443

On December 10, 2004, this matter came on for hearing on the Motion for Summary Judgment on Declaratory Judgment Action of Liberty Mutual Insurance Company, Plaintiff in the above-entitled action, with Mitchel T. Rice appearing as attorney for Plaintiff, C. Peter Whitner appearing as attorney for Defendant Burdene Shores, and Ronald Ady appearing as attorney for Defendant Unior Shores.

Also before the Court is Defendant Burdene Shores' Rule 56(f) Motion to continue a decision on Plaintiff's Motion for Summary Judgment in order to conduct further discovery. This Motion was raised orally by Mrs. Shores' Counsel at the commencement of the hearing on December 10, 2004.

After reading Plaintiff's Motion for Summary Judgment, the Memoranda in Support thereof, Defendant's Memorandum in Opposition thereto, and after consideration of Oral Arguments from all Counsel on both the Motion for Summary Judgment and Rule 56(f) Motion, the Court hereby Orders and presents its findings and conclusions as follows:

1. The Court finds that on September 9, 2003, Burdene Shores was involved in an automobile accident in which her husband, Unior Shores, was driving the vehicle; Mrs. Shores allegedly sustained personal injuries in the collision.
2. The Court finds that Mr. and Mrs. Shores were named insureds on an insurance policy issued by Plaintiff which provides liability coverage for the automobile that the Shores were riding in at the time of the accident. The policy number is A02-268-209010-1037. The Liberty Mutual Policy includes bodily injury liability coverage of \$100,000 each person and \$300,000 per accident.

3. The Liberty Mutual Policy of Insurance also includes a “step-down” or “household exclusion” in an endorsement to the policy, Endorsement # PP 01 93 04 02. This provision states as follows:

I. Part A - Liability Coverage

Part A is amended as follows:

....

B. The following exclusion is added:

We do not provide Liability Coverage for any “insured” for “bodily injury” to you to the extent that the limits of liability for this coverage exceed the applicable minimum limits for liability specified by UTAH CODE ANN. Section 31A-22-304. The applicable minimum limits are:

1. \$65,000 for each accident, if the limit of liability for this coverage is a single limit that applies for each accident; or
  2. \$25,000 for each person/\$50,000 for each accident, if the limit of liability for this coverage is indicated as a split limit.
4. The Court finds that Mrs. Shores, through her Counsel, has demanded that Liberty Mutual pay \$100,000 in liability limits under the automobile policy as a result of the accident and her injuries. Liberty Mutual has denied Defendant’s demand based on the Household Exclusion provision but has offered to pay \$25,000 in exchange for a release.
5. The Court finds that Mrs. Shores is suing her husband in a separate action for negligent driving in an effort to collect benefits under the liability coverage of the Liberty Mutual Policy of Insurance.

6. Liberty Mutual filed an Amended Complaint for Declaratory Relief asking the Court to declare that it is not liable to pay more than the statutory minimum of \$25,000 pursuant to the Household Exclusion in the policy endorsement.
7. With regard to the legal standards for deciding Plaintiff's Motion, the Court concludes that a Motion for Summary Judgment is appropriate when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. The Court further views the facts and inferences to be drawn therefrom in a light most favorable to the non-moving party.
8. The Court further concludes that, under Utah law, insurance policies are interpreted according to the rules governing ordinary contracts, and the terms of the contract are harmonized with the policy as a whole. Ambiguities in an insurance policy are construed against the insurer and in favor of coverage.
9. The Court further concludes that exclusions in insurance policies are accepted as long as they don't violate public policy or state statute. Insurers are permitted to exclude certain losses from coverage by using language which clearly and unmistakably communicates to the insured the circumstances under which coverage will not be provided.
10. The Court finds that the issue presented by Plaintiff's Motion for Summary Judgment is whether an insurer may limit coverage for members of an insured household in an automobile policy of insurance under Utah law. The Court finds that this particular issue is unresolved under the current state of the law in Utah.

11. In deciding the present Motions, the Court considers the following judicial history:
- In 1985, the Utah Supreme Court decided *Farmers Insurance Exchange v. Call*, 712 P.2d 231 (Utah 1985), where the Court held that household exclusion clauses in automobile insurance policies are contrary to public policy and the no-fault statutes as to any amounts at or below the minimum benefits established under the No-Fault Insurance Act. In 1987, the Utah Supreme Court decided *State Farm Mutual Automobile Insurance Company v. Mastbaum*, 748 P.2d 1042 (Utah 1987). Two of the five Judges deciding *Mastbaum* held that household exclusions in automobile insurance policies are valid in excess of the statutory mandated amounts. Judge Durham wrote a dissenting opinion in *Mastbaum* where she opined that the legislative history indicated that all household exclusions in automobile insurance policies were contrary to public policy. Judge Zimmerman and Judge Stewart joined in a concurring opinion where they decided that only household exclusions in automobile insurance policies written after 1986 would be contrary to public policy. In 1994, the Utah Court of Appeals in *National Farmers Union Property and Casualty Company v. Moore*, 882 P.2d 1168 (Utah 1994), upheld a household exclusion in a farmowners policy of insurance, and further stated that the concurring and dissenting opinions in *Mastbaum* were dicta. In July of 2004, the Utah Supreme Court decided *Calhoun v. State Farm Mutual Automobile Insurance Company*, 96 P.3d 916 (Utah 2004). In that opinion, the Utah Supreme Court held as follows:

[E]xclusionary endorsements such as the “owned vehicle” exception at issue are not necessarily invalid. “Rather, contracting parties are free to limit coverage in excess of the minimum required limits, and [an] exclusion found in [a] contract [is] valid in relation to any coverage exceeding minimum amounts.” [citations omitted]. As long as any exclusions are phrased in “language which clearly and unmistakably communicates to the insured the specific circumstances under which the expected coverage will not be provided,” exclusions in insurance policies beyond the minimum coverage limits are allowed. *Alf v. State Farm Fire & Cas. Co.*, 850 P.2d 1272, 1275 (Utah 1993) (quotations omitted).

*Id.* at 923-24.

12. The Court concludes that *Calhoun* sets forth the general rule of law governing exclusions in automobile policies, and this District Court is bound to follow that rule of law.
13. The Court finds that the Household Exclusion in the Liberty Mutual Policy of Insurance clearly and unmistakably communicates to the insureds the circumstances under which coverage will be limited under the policy.
14. Based on all of the reasons cited above, and the reasons set forth in Plaintiff Liberty Mutual’s Memoranda in Support of Motion for Summary Judgment, the Court hereby grants Plaintiff’s Motion for Summary Judgment on its Amended Complaint for Declaratory Relief, and further dismisses the causes of action for declaratory relief alleged in Defendant Burdene Shores’ and Defendant Unior Shores’ Counterclaims against Plaintiff.



15. The Court therefore concludes that the Household Exclusion in the endorsement to Liberty Mutual's Policy of Insurance is a valid and enforceable provision limiting the liability coverage for Defendant Burdene Shores' claim to \$25,000.
16. The Court further disregards the Affidavit of Ryan Farnsworth for purposes of Plaintiff's Motion for Summary Judgment. The Court concludes that the issue presented by Plaintiff's Motion is a legal issue to be decided by the Court. The Court therefore orders that Defendant's Rule 56(f) Motion for a continuance to conduct additional discovery is denied.

DATED this 21 day of January, 2005.

FOURTH JUDICIAL DISTRICT COURT

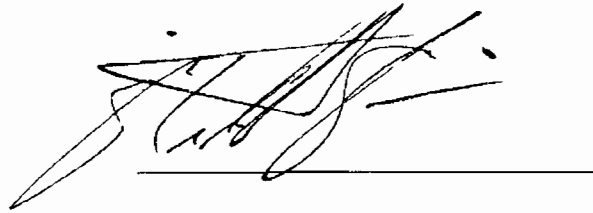
  
Judge Derek Pullan

CERTIFICATE OF MAILING

I hereby certify that on this 11 day of January, 2005, I caused a true and correct copy of ORDER AND FINAL JUDGMENT GRANTING PLAINTIFF LIBERTY MUTUAL INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT ON DECLARATORY JUDGMENT ACTION, AND DENYING DEFENDANT BURDENE SHORES' RULE 56(f) MOTION to be mailed via first class mail to the following:

C. Peter Whitmer  
P. O. Box 434  
Pleasant Grove UT. 84062  
Attorney for Defendant

Ronald Ady  
10 West 100 South, Suite 425  
Salt Lake City, UT 84101

A handwritten signature in black ink, appearing to be "Ronald Ady", is written over a horizontal line.

**LIBERTY MUTUAL INSURANCE POLICY**

in the form delivered to the Shores

Dated: January 16, 2003

Exhibit "A" to the Answer and Counterclaim

Record on Appeal, Pages 66 through 21



LIBERTY MUTUAL GROUP  
FARNSWORTH R.  
51 WEST UNIVERSITY PARKWAY  
OREM UT 84058

JANUARY 16, 2003

UNIOR SHORES  
BURDENE SHORES  
97 S 400 E  
LINDON UT 84042-2120

Thank you for participating in Group Savings Plus® and for choosing Liberty Mutual as your insurer. We really appreciate your business and we'll work as hard as we can to keep it. Our commitment to you is outlined in the enclosed document—your new insurance policy.

You can count on us to provide high-quality insurance products and services, at an affordable price. Through Group Savings Plus® you'll enjoy:

- Group discounts on auto & home insurance (where state law allows)
- Convenient payment options
- No service fees for electronic withdrawals or employer sponsored payroll deductions
- Personalized service
- Annual policies at guaranteed rates
- 24-hour claims service
- Emergency roadside assistance for auto customers

If you have any questions about your policy, please call us. For your convenience, the first page of your policy lists the telephone number for the office that services your account. Our team of representatives will be happy to assist you.

We want you to enjoy the sense of freedom that comes from insuring with Liberty Mutual. Our goal is to protect you and your family with the best Auto, Homeowners, Liability, and other Personal Insurance products in order to keep you among our satisfied, long-term customers.

Again, thank you for participating in Group Savings Plus® and for choosing Liberty Mutual.

Sincerely,

Brenda C. McDonald  
Regional Service Manager  
Liberty Mutual Fire Insurance Co.

Helping People Live Safer, More Secure Lives

00066

LIBERTY MUTUAL FIRE INSURANCE COMPANY  
LIBERTY GUARD AUTO POLICY DECLARATION  
BOSTON, MASSACHUSETTS

POLICY NUMBER

AO2-268-209010-103 7

THESE DECLARATIONS EFFECTIVE

01/12/03

NAMED INSURED AND MAILING ADDRESS

UNIOR SHORES  
BURDENE SHORES  
97 S 400 E  
LINDON UT 84042-2120

FOR SERVICE CALL OR WRITE:

FARNSWORTH R  
51 WEST UNIVERSITY PARKWAY  
OREM UT 84058  
801-371-8879  
CLAIMS: 800-713-7379

CLIENT# 000000000003647 ACCOUNT# 263387370

POLICY PERIOD: 01/12/03 TO 01/12/04 12:01AM STANDARD TIME AT THE ADDRESS OF THE NAMED INSURED AS STATED IN THE POLICY. THIS POLICY SHALL EXPIRE ON THE DATE SHOWN EXCEPT THAT IT MAY BE CONTINUED IN FORCE FOR SUCCESSIVE POLICY PERIODS BY THE PAYMENT OF THE REQUIRED RENEWAL PREMIUM. EACH SUCH POLICY PERIOD SHALL BE FOR THE PERIOD SPECIFIED IN THE RENEWAL DECLARATIONS.

COVERAGES AND LIMITS UNDER YOUR AUTO POLICY: COVERAGE IS PROVIDED WHERE A PREMIUM IS SHOWN FOR THE COVERAGE

PART		VEH 1	VEH 2
A. LIABILITY		\$ 160	178
BODILY INJURY	\$ 100,000 EACH PERSON		
	\$ 300,000 EACH ACCIDENT		
PROPERTY DAMAGE	\$ 100,000 EACH ACCIDENT		
C. UNINSURED MOTORISTS		\$ 13	13
BODILY INJURY	\$ 25,000 EACH PERSON		
	\$ 50,000 EACH ACCIDENT		
PROPERTY DAMAGE	\$ 3,500 EACH ACCIDENT	\$	5
UNDERINSURED MOTORISTS		\$ 13	13
BODILY INJURY	\$ 25,000 EACH PERSON		
	\$ 50,000 EACH ACCIDENT		
PERSONAL INJURY PROTECTION (PIP)		\$ 19	29
3000 - MEDICAL EXPENSE			
WORK LOSS - ESSENTIAL SERVICES			
LOSS OF INCOME BENEFITS			
1500 FUNERAL EXPENSES			
3000 SURVIVORS LOSS			
D. COVERAGE FOR DAMAGE TO YOUR AUTO			
OTHER THAN COLLISION		\$ 52	
ACTUAL CASH VALUE LESS DEDUCTIBLE SHOWN:			
VEH 1 \$ 100			
COLLISION		\$ 167	
ACTUAL CASH VALUE LESS DEDUCTIBLE SHOWN:			
VEH 1 \$ 250			

OPTIONAL COVERAGE

TOWING AND LABOR COST - \$50 EACH DISABLEMENT \$ 5

AUTO 0070 (REV. 4-80)

This policy, including all endorsements attached is countersigned by:

Dexter P. Lay Lewis F. Kly

James MacFarlane

AUTHORIZED REPRESENTATIVE

00065

LIBERT MUTUAL FIRE INSURANCE COMPANY  
LIBERT GUARD AUTO POLICY DECLARATIONS  
BOSTON, MASSACHUSETTS

NEW  
PAGE 02

POLICY NUMBER

AQ2-268-209010-103 7

THESE DECLARATIONS EFFECTIVE 01/12/03

NAMED INSURED AND MAILING ADDRESS

UNIOR SHORES  
BURDENE SHORES  
97 S 400 E  
LINDON UT 84042-2120

FOR SERVICE CALL OR WRITE:  
FARNSWORTH R  
51 WEST UNIVERSITY PARKWAY  
OREM UT 84058  
801-371-8879  
CLAIMS: 800-713-7379

(CONTINUED FROM PREVIOUS PAGE)

ANNUAL PREMIUM PER VEHICLE: \$ 429 238

TOTAL ANNUAL POLICY PREMIUM: \$ 667.00

ENDORSEMENTS ATTACHED TO YOUR POLICY:

PP 05 79 02 99 PERSONAL INJURY PROTECTION COVERAGE - UTAH  
PP 04 66 04 02 UNDERINSURED MOTOTISTS COVERAGE - UTAH  
PP 01 93 04 02 AMENDMENT OF POLICY PROVISIONS - UTAH  
PP 03 03 04 86 TOWING AND LABOR COST COVERAGE  
AS1046 12 89 AUTOMATIC TERMINATION ENDORSEMENT  
PP 04 24 04 02 UNINSURED MOTOTISTS COVERAGE - UTAH  
AS2112 10 99 NEW VEHICLE REPLACEMENT COST COVERAGE  
PP 13 01 12 99 COVERAGE FOR DAMAGE TO YOUR AUTO EXCLUSION ENDORSEMENT

VEHICLES COVERED BY YOUR POLICY:

VEH	YR	MAKE	MODEL	IDENTIFICATION #	CLASS	STATE	RATING TERRITORY	RATING SYMBOL
1	98	MERC	GRMRLS/L	2MEFM75W6WX619022	67	UT 43	006	08
2	68	PONT		242378B121394	67	UT 43	006	03

YOUR PREMIUM REFLECTS THE FOLLOWING. IF INCORRECT, CONTACT YOUR SERVICE OFFICE.

CLASS 67 PREFERRED RATE - PLEASURE USE - NO YOUTHFUL OPERATORS - COMMUTING  
LESS THAN 3 MILES ONE WAY - THERE IS A PRINCIPAL OPERATOR AGE 65  
OR OVER.

VEH 1,2 GARAGED AT NAMED INSURED'S ADDRESS

SAFE DRIVER INSURANCE PLAN:  
NO CHARGES APPLY-SC0

THE FOLLOWING DISCOUNTS DISPLAYED WITH "YES" HAVE BEEN APPLIED TO YOUR  
POLICY. THE DISCOUNTS INDICATED AS "NO" HAVE NOT BEEN APPLIED TO YOUR  
POLICY. IF YOU BELIEVE THAT YOU MAY BE ELIGIBLE FOR ANY DISCOUNT(S)  
LISTED AS "NO", PLEASE CONTACT YOUR LOCAL SALES OR SERVICE REPRESENTATIVE  
SHOWN ON THE FIRST PAGE OF YOUR POLICY DECLARATIONS.

AUTH 0678 (06 0-03)

This policy, including all endorsements attached is countersigned by:

Dexter P. Lagg  
LIBERT MUTUAL FIRE INSURANCE COMPANY  
LIBERT GUARD AUTO POLICY DECLARATIONS

James MacFarlane  
LIBERT MUTUAL FIRE INSURANCE COMPANY  
LIBERT GUARD AUTO POLICY DECLARATIONS

AUTHORIZED REPRESENTATIVE

00064

LIBERTY MUTUAL FIRE INSURANCE COMPANY  
LIBERTY GUARD AUTO POLICY DECLARATION  
BOSTON, MASSACHUSETTS

NEW  
PAGE 03

POLICY NUMBER

AO2-268-209010-103 7

THESE DECLARATIONS EFFECTIVE

01/12/03

NAMED INSURED AND MAILING ADDRESS

UNIOR SHORES  
BURDENE SHORES  
97 S 400 E  
LINDON UT 84042-2120

FOR SERVICE CALL OR WRITE:  
FARNSWORTH R  
51 WEST UNIVERSITY PARKWAY  
OREM UT 84058  
801-371-8879  
CLAIMS: 800-713-7379

DISCOUNTS

(CONTINUED FROM PREVIOUS PAGE)

VEH 1 VEH 2

GROUP SAVINGS PLUS®	YES	YES
ANTI-LOCK BRAKES	YES	NO
ANTI-THEFT DEVICE(S)	YES	NO
DEFENSIVE DRIVER COURSE	NO	NO
GOOD STUDENT	NO	NO
MULTI-CAR	YES	YES
PASSIVE RESTRAINT	YES	NO
(MOTORIZED SEAT BELT AND/OR AIR BAGS)		

OPERATOR INFORMATION:

NO. NAME

1 UNIOR SHORES  
2 BURDENE SHORES

DATE OF BIRTH

11/01/21  
06/17/29

SPECIAL STATE PROVISIONS:

PERSUANT TO THE LAWS OF UTAH SECTION 31A-21-201 YOU ARE HEREBY INFORMED THAT  
LIBERTY MUTUAL FIRE INSURANCE COMPANY IS THE EXACT NAME OF YOUR INSURER  
WHICH IS DOMICILED IN THE STATE OF MASSACHUSETTS.

AUTO 2679 (50, 4 93)

This policy, including all endorsements attached is countersigned by:

*Dexter P. Lapp* *Edward F. Kelly*

*James MacPhee*

AUTHORIZED REPRESENTATIVE

00063



## **LibertyGuard**

### **Auto Policy**

**Please read your policy and each endorsement carefully.**

#### **To serve you best...**

Liberty Mutual has over 350 service offices throughout the United States and Canada. Please contact your service office shown on your Declarations Page to report losses, or for any changes or questions about your insurance. Payments should be sent to the office indicated on your bill.

**THIS POLICY IS NONASSESSABLE**

Liberty Mutual  
Insurance Group



**LIBERTYGUARD AUTO POLICY  
QUICK REFERENCE  
DECLARATIONS PAGE**

Your Name and Address  
Your Auto or Trailer  
Policy Period  
Coverages and Amounts of Insurance

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\*These conditions apply only if Liberty Mutual Fire Insurance Company is shown in the Declarations as the insurer.

**AUTO POLICY  
AGREEMENT**

In return for payment of the premium and subject to all the terms of this policy, we agree with you as follows:

**DEFINITIONS**

A. Throughout this policy, "you" and "your" refer to:

1. The "named insured" shown in the Declarations; and
2. The spouse if a resident of the same household.

If the spouse ceases to be a resident of the same household during the policy period or prior to the inception of this policy, the spouse will be considered "you" and "your" under this policy but only until the earlier of:

1. The end of 90 days following the spouse's change of residency;
2. The effective date of another policy listing the spouse as a named insured; or
3. The end of the policy period.

B. "We", "us" and "our" refer to the Company providing this insurance.

C. For purposes of this policy, a private passenger type auto, pickup or van shall be deemed to be owned by a person if leased:

1. Under a written agreement to that person; and
2. For a continuous period of at least 6 months.

Other words and phrases are defined. They are in quotation marks when used.

D. "Bodily injury" means bodily harm, sickness or disease, including death that results.

E. "Business" includes trade, profession or occupation.

F. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household. This includes a ward or foster child.

G. "Occupying" means in, upon, getting in, on, out or off.

H. "Property damage" means physical injury to, destruction of or loss of use of tangible property.

I. "Trailer" means a vehicle designed to be pulled by a:

1. Private passenger auto; or
2. Pickup or van.

It also means a farm wagon or farm implement while towed by a vehicle listed in 1. or 2. above.

J. "Your covered auto" means:

1. Any vehicle shown in the Declarations.
2. A "newly acquired auto".
3. Any "trailer" you own.
4. Any auto or "trailer" you do not own while

used as a temporary substitute for any other vehicle described in this definition which is out of normal use because of its:

- a. Breakdown;
- b. Repair;
- c. Servicing;
- d. Loss; or
- e. Destruction.

This Provision (J.4.) does not apply to Coverage For Damage To Your Auto.

K. "Newly acquired auto":

1. "Newly acquired auto" means any of the following types of vehicles you become the owner of during the policy period:

- a. A private passenger auto; or
- b. A pickup or van, for which no other insurance policy provides coverage, that:

(1) Has a Gross Vehicle Weight of less than 10,000 lbs.; and

(2) Is not used for the delivery or transportation of goods and materials unless such use is:

(a) Incidental to your "business" of installing, maintaining or repairing furnishings or equipment; or

(b) For farming or ranching.

2. Coverage for a "newly acquired auto" is provided as described below. If you ask us to insure a "newly acquired auto" after a specified time period described below has elapsed, any coverage we provide for a "newly acquired auto" will begin at the time you request the coverage.

- a. For any coverage provided in this policy except Coverage For Damage To Your Auto, a "newly acquired auto" will have the broadest coverage we now provide for any vehicle shown in the Declarations. Coverage begins on the date you become the owner. However, for this coverage to apply to a "newly acquired auto" which is in addition to any vehicle shown in the Declarations, you must ask us to insure it within 14 days after you become the owner.

If a "newly acquired auto" replaces a vehicle shown in the Declarations, coverage is provided for this vehicle without your having to ask us to insure it.

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b. Collision Coverage for a "newly acquired auto" begins on the date you become the owner. However, for this coverage to apply, you must ask us to insure it within:

- (1) 14 days after you become the owner if the Declarations indicate that Collision Coverage applies to at least one auto. In this case, the "newly acquired auto" will have the broadest coverage we now provide for any auto shown in the Declarations.
- (2) Four days after you become the owner if the Declarations do not indicate that Collision Coverage applies to at least one auto. If you comply with the 4 day requirement and a loss occurred before you asked us to insure the "newly acquired auto", a Collision deductible of \$500 will apply.

c. Other Than Collision Coverage for a "newly acquired auto" begins on the date you become the owner. However, for this coverage to apply, you must ask us to insure it within:

- (1) 14 days after you become the owner if the Declarations indicate that Other Than Collision Coverage applies to at least one auto. In this case, the "newly acquired auto" will have the broadest coverage we now provide for any auto shown in the Declarations.
- (2) Four days after you become the owner if the Declarations do not indicate that Other Than Collision Coverage applies to at least one auto. If you comply with the 4 day requirement and a loss occurred before you asked us to insure the "newly acquired auto", an Other Than Collision deductible of \$500 will apply.

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## PART A - LIABILITY COVERAGE

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### INSURING AGREEMENT

A. We will pay damages for "bodily injury" or "property damage" for which any "insured" becomes legally responsible because of an auto accident. Damages include prejudgment interest awarded against the "insured". We will settle or defend, as we consider appropriate, any claim or suit asking for these damages. In addition to our limit of liability, we will pay all defense costs we incur. Our duty to settle or defend ends when our limit of liability for this coverage has been exhausted by payment of judgments or settlements. We have no duty to defend any suit or settle any claim for "bodily injury" or "property damage" not covered under this policy.

B. "Insured" as used in this Part means:

1. You or any "family member" for the ownership, maintenance or use of any auto or "trailer".
2. Any person using "your covered auto".
3. For "your covered auto", any person or organization but only with respect to legal responsibility for acts or omissions of a person for whom coverage is afforded under this Part.
4. For any auto or "trailer", other than "your covered auto", any other person or organization but only with respect to legal responsibility for acts or omissions of you or any "family member" for whom coverage is afforded under this Part. This Provision (B.4.) applies only if the person or organization does not own or hire the auto or "trailer".

### SUPPLEMENTARY PAYMENTS

In addition to our limit of liability, we will pay on behalf of an "insured":

1. Up to \$250 for the cost of bail bonds required because of an accident, including related traffic law violations. The accident must result in "bodily injury" or "property damage" covered under this policy.
2. Premiums on appeal bonds and bonds to release attachments in any suit we defend.
3. Interest accruing after a judgment is entered in any suit we defend. Our duty to pay interest ends when we offer to pay that part of the judgement which does not exceed our limit of liability for this coverage.
4. Up to \$200 a day for loss of earnings, but not other income, because of attendance at hearings or trials at our request.
5. Other reasonable expenses incurred at our request.

### EXCLUSIONS

A. We do not provide Liability Coverage for any "insured":

1. Who intentionally causes "bodily injury" or "property damage".
2. For "property damage" to property owned or being transported by that "insured".

3. For "property damage" to property:

- a. Rented to;
  - b. Used by; or
  - c. In the care of;
- that "insured".

This Exclusion (A.3.) does not apply to "property damage" to a residence or private garage.

4. For "bodily injury" to an employee of that "insured" during the course of employment. This Exclusion (A.4.) does not apply to "bodily injury" to a domestic employee unless workers' compensation benefits are required or available for that domestic employee.

5. For that "insured's" liability arising out of the ownership or operation of a vehicle while it is being used as a public or livery conveyance. This Exclusion (A.5.) does not apply to a share-the-expense car pool.

6. While employed or otherwise engaged in the "business" of:

- a. Selling;
- b. Repairing;
- c. Servicing;
- d. Storing; or
- e. Parking;

vehicles designed for use mainly on public highways. This includes road testing and delivery. This Exclusion (A.6.) does not apply to the ownership, maintenance or use of "your covered auto" by:

- a. You;
- b. Any "family member"; or
- c. Any partner, agent or employee of you or any "family member".

7. Maintaining or using any vehicle while that "insured" is employed or otherwise engaged in any "business" (other than farming or ranching) not described in Exclusion A.6.

This Exclusion (A.7.) does not apply to the maintenance or use of a:

- a. Private passenger auto;
- b. Pickup or van; or
- c. "Trailer" used with a vehicle described in a. or b. above.

8. Using a vehicle without a reasonable belief that that "insured" is entitled to do so. This Exclusion (A.8.) does not apply to a "family member" using "your covered auto" which is owned by you.

9. For "bodily injury" or "property damage" for which that "insured":

- a. Is an insured under a nuclear energy liability policy; or
- b. Would be an insured under a nuclear energy liability policy but for its termination upon exhaustion of its limit of liability.

A nuclear energy liability policy is a policy issued by any of the following or their successors:

- a. Nuclear Energy Liability Insurance Association;
- b. Mutual Atomic Energy Liability Underwriters; or
- c. Nuclear Insurance Association of Canada.

B. We do not provide Liability Coverage for the ownership, maintenance or use of:

1. Any vehicle which:

- a. Has fewer than four wheels; or
- b. Is designed mainly for use off public roads.

This Exclusion (B.1.) does not apply:

- a. While such vehicle is being used by an "insured" in a medical emergency;
- b. To any "trailer"; or
- c. To any non-owned golf cart.

2. Any vehicle, other than "your covered auto", which is:

- a. Owned by you; or
- b. Furnished or available for your regular use.

3. Any vehicle, other than "your covered auto", which is:

- a. Owned by any "family member"; or
- b. Furnished or available for the regular use of any "family member".

However, this Exclusion (B.3.) does not apply to you while you are maintaining or "occupying" any vehicle which is:

- a. Owned by a "family member"; or
- b. Furnished or available for the regular use of a "family member".

4. Any vehicle, located inside a facility designed for racing, for the purpose of:

- a. Competing in; or
- b. Practicing or preparing for; any prearranged or organized racing or speed contest.

## LIMIT OF LIABILITY

- A. The limit of liability shown in the Declarations for each person for Bodily Injury Liability is our maximum limit of liability for all damages, including damages for care, loss of services or death, arising out of "bodily injury" sustained by any one person in any one auto accident. Subject to this limit for each person, the limit of liability shown in the Declarations for each accident for Bodily Injury Liability is our maximum limit of liability for all damages for "bodily injury" resulting from any one auto accident.

The limit of liability shown in the Declarations for each accident for Property Damage Liability is our maximum limit of liability for all "property damage" resulting from any one auto accident.

This is the most we will pay regardless of the number of:

1. "Insureds";
  2. Claims made;
  3. Vehicles or premiums shown in the Declarations; or
  4. Vehicles involved in the auto accident.
- B. No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and:
1. Part B or Part C of this policy; or
  2. Any Underinsured Motorists Coverage provided by this policy.

## OUT OF STATE COVERAGE

If an auto accident to which this policy applies occurs in any state or province other than the one in which "your covered auto" is principally garaged, we will interpret your policy for that accident as follows:

- A. If the state or province has:

1. A financial responsibility or similar law specifying limits of liability for "bodily injury" or "property damage" higher than the limit shown in the Declarations, your policy will provide the higher specified limit.
2. A compulsory insurance or similar law requiring a nonresident to maintain insurance whenever the nonresident uses a vehicle in that state or province, your policy will provide at least the required minimum amounts and types of coverage.

- B. No one will be entitled to duplicate payments for the same elements of loss.

## FINANCIAL RESPONSIBILITY

When this policy is certified as future proof of financial responsibility, this policy shall comply with the law to the extent required.

## OTHER INSURANCE

If there is other applicable liability insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide for a vehicle you do not own shall be excess over any other collectible insurance.

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## PART B - MEDICAL PAYMENTS COVERAGE

### INSURING AGREEMENT

- A. We will pay reasonable expenses incurred for necessary medical and funeral services because of "bodily injury":

1. Caused by accident; and
2. Sustained by an "insured".

We will pay only those expenses incurred for services rendered within 3 years from the date of the accident.

- B. "Insured" as used in this Part means:

1. You or any "family member":
  - a. While "occupying"; or
  - b. As a pedestrian when struck by;  
a motor vehicle designed for use mainly on public roads or a trailer of any type.
2. Any other person while "occupying" "your covered auto".

### EXCLUSIONS

We do not provide Medical Payments Coverage for any "insured" for "bodily injury":

1. Sustained while "occupying" any motorized vehicle having fewer than four wheels.
2. Sustained while "occupying" "your covered auto" when it is being used as a public or

livery conveyance. This Exclusion (2.) does not apply to a share-the-expense car pool.

3. Sustained while "occupying" any vehicle located for use as a residence or premises.
4. Occurring during the course of employment if workers' compensation benefits are required or available for the "bodily injury".
5. Sustained while "occupying", or when struck by, any vehicle (other than "your covered auto") which is:
  - a. Owned by you; or
  - b. Furnished or available for your regular use.
6. Sustained while "occupying", or when struck by, any vehicle (other than "your covered auto") which is:
  - a. Owned by any "family member"; or
  - b. Furnished or available for the regular use of any "family member".

However, this Exclusion (6.) does not apply to you.

7. Sustained while "occupying" a vehicle without a reasonable belief that that "insured" is entitled to do so. This Exclusion (7.) does not apply to a "family member" using "your covered auto" which is owned by you.
8. Sustained while "occupying" a vehicle when it is being used in the "business" of an "insured". This Exclusion (8.) does not apply to "bodily injury" sustained while "occupying" a:
  - a. Private passenger auto;
  - b. Pickup or van that you own; or
  - c. "Trailer" used with a vehicle described in a. or b. above.
9. Caused by or as a consequence of:
  - a. Discharge of a nuclear weapon (even if accidental);
  - b. War (declared or undeclared);
  - c. Civil war;
  - d. Insurrection; or
  - e. Rebellion or revolution.
10. From or as a consequence of the following, whether controlled or uncontrolled or however caused:
  - a. Nuclear reaction;
  - b. Radiation; or
  - c. Radioactive contamination.
11. Sustained while "occupying" any vehicle located inside a facility designed for racing, for the purpose of:
  - a. Competing in; or

- b. Practicing or preparing for; any prearranged or organized racing or speed contest.

#### **LIMIT OF LIABILITY**

- A. The limit of liability shown in the Declarations for this coverage is our maximum limit of liability for each person injured in any one accident. This is the most we will pay regardless of the number of:
  1. "Insureds";
  2. Claims made;
  3. Vehicles or premiums shown in the Declarations; or
  4. Vehicles involved in the accident.
- B. No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and:
  1. Part A or Part C of this policy; or
  2. Any Underinsured Motorists Coverage provided by this policy.

#### **OTHER INSURANCE**

If there is other applicable auto medical payments insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide with respect to a vehicle you do not own shall be excess over any other collectible auto insurance providing payments for medical or funeral expenses.

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### **PART C - UNINSURED MOTORISTS COVERAGE**

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#### **INSURING AGREEMENT**

- A. We will pay compensatory damages which an "insured" is legally entitled to recover from the owner or operator of an "uninsured motor vehicle" because of "bodily injury":
  1. Sustained by an "insured"; and
  2. Caused by an accident.

The owner's or operator's liability for these damages must arise out of the ownership, maintenance or use of the "uninsured motor vehicle".

Any judgment for damages arising out of a suit brought without our written consent is not binding on us.
- B. "Insured" as used in this Part means:
  1. You or any "family member".
  2. Any other person "occupying" "your covered auto".

3. Any person for damages that person is entitled to recover because of "bodily injury" to which this coverage applies sustained by a person described in 1. or 2. above.
- C. "Uninsured motor vehicle" means a land motor vehicle or trailer of any type:
  1. To which no bodily injury liability bond or policy applies at the time of the accident.
  2. To which a bodily injury liability bond or policy applies at the time of the accident. In this case its limit for bodily injury liability must be less than the minimum limit for bodily injury liability specified by the financial responsibility law of the state in which "your covered auto" is principally garaged.

3. Which is a hit-and-run vehicle whose operator or owner cannot be identified and which hits:
  - a. You or any "family member";
  - b. A vehicle which you or any "family member" are "occupying"; or
  - c. "Your covered auto".
4. To which a bodily injury liability bond or policy applies at the time of the accident but the bonding or insuring company:
  - a. Denies coverage; or
  - b. Is or becomes insolvent.

[However, "uninsured motor vehicle" does not include any vehicle or equipment:

1. Owned by or furnished or available for the regular use of you or any "family member".
2. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer which is or becomes insolvent.
3. Owned by any governmental unit or agency.
4. Operated on rails or crawler treads.
5. Designed mainly for use off public roads while not on public roads.
6. While located for use as a residence or premises.

#### EXCLUSIONS

- A. We do not provide Uninsured Motorists Coverage for "bodily injury" sustained:
  1. By an "insured" while "occupying", or when struck by, any motor vehicle owned by that "insured" which is not insured for this coverage under this policy. This includes a trailer of any type used with that vehicle.
  2. By any "family member" while "occupying", or when struck by, any motor vehicle you own which is insured for this coverage on a primary basis under any other policy.
- B. We do not provide Uninsured Motorists Coverage for "bodily injury" sustained by any "insured":
  1. If that "insured" or the legal representative settles the "bodily injury" claim without our consent.
  2. While "occupying" "your covered auto" when it is being used as a public or livery conveyance. This Exclusion (B.2.) does not apply to a share-the-expense car pool.
  3. Using a vehicle without a reasonable belief that that "insured" is entitled to do so. This Exclusion (B.3.) does not apply to a "family member" using "your covered auto" which is owned by you.
- C. This coverage shall not apply directly or indirectly to benefit any insurer or self-insurer under any of the following or similar law:

1. Workers' compensation law; or
2. Disability benefits law.

- D. We do not provide Uninsured Motorists Coverage for punitive or exemplary damages.

#### LIMIT OF LIABILITY

- A. The limit of liability shown in the Declarations for each person for Uninsured Motorists Coverage is our maximum limit of liability for all damages, including damages for care, loss of services or death, arising out of "bodily injury" sustained by any one person in any one accident. Subject to this limit for each person, the limit of liability shown in the Declarations for each accident for Uninsured Motorists Coverage is our maximum limit of liability for all damages for "bodily injury" resulting from any one accident.

This is the most we will pay regardless of the number of:

1. "Insureds";
2. Claims made;
3. Vehicles or premiums shown in the Declarations; or
4. Vehicles involved in the accident.

- B. No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and:

1. Part A. or Part B. of this policy; or
2. Any Underinsured Motorists Coverage provided by this policy.

- C. We will not make a duplicate payment under this coverage for any element of loss for which payment has been made by or on behalf of persons or organizations who may be legally responsible.

- D. We will not pay for any element of loss if a person is entitled to receive payment for the same element of loss under any of the following or similar law:

1. Workers' compensation law; or
2. Disability benefits law.

#### OTHER INSURANCE

If there is other applicable insurance available under one or more policies or provisions of coverage that is similar to the insurance provided under this Part of the policy:

1. Any recovery for damages under all such policies or provisions of coverage may equal but not exceed the highest applicable limit for any one vehicle under any insurance providing coverage on either a primary or excess basis.
2. Any insurance we provide with respect to a vehicle you do not own shall be excess over any collectible insurance providing such coverage on a primary basis.

3. If the coverage under this policy is provided:
  - a. On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage provided on a primary basis.
  - b. On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage provided on an excess basis.

#### ARBITRATION

- A. If we and an "insured" do not agree:
  1. Whether that "insured" is legally entitled to recover damages; or
  2. As to the amount of damages which are recoverable by that "insured";
 from the owner or operator of an "uninsured motor vehicle", then the matter may be arbitrated. However, disputes concerning coverage under this Part may not be arbitrated. Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The

two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction.

- B. Each party will:
  1. Pay the expenses it incurs; and
  2. Bear the expenses of the third arbitrator equally.
- C. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding as to:
  1. Whether the "insured" is legally entitled to recover damages; and
  2. The amount of damages. This applies only if the amount does not exceed the minimum limit for bodily injury liability specified by the financial responsibility law of the state in which "your covered auto" is principally garaged. If the amount exceeds that limit, either party may demand the right to a trial. This demand must be made within 60 days of the arbitrator's decision. If this demand is not made, the amount of damages agreed to by the arbitrators will be binding.

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#### PART D - COVERAGE FOR DAMAGE TO YOUR AUTO

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##### INSURING AGREEMENT

- A. We will pay for direct and accidental loss to "your covered auto" or any "non-owned auto", including their equipment, minus any applicable deductible shown in the Declarations. If loss to more than one "your covered auto" or "non-owned auto" results from the same "collision", only the highest applicable deductible will apply. We will pay for loss to "your covered auto" caused by:
  1. Other than "collision" only if the Declarations indicate that Other Than Collision Coverage is provided for that auto.
  2. "Collision" only if the Declarations indicate that Collision Coverage is provided for that auto.

If there is a loss to a "non-owned auto", we will provide the broadest coverage applicable to any "your covered auto" shown in the Declarations.

- B. "Collision" means the upset of "your covered auto" or a "non-owned auto" or their impact with another vehicle or object.

Loss caused by the following is considered other than "collision":

1. Missiles or falling objects;
2. Fire;
3. Theft or larceny;
4. Explosion or earthquake;
5. Windstorm;
6. Hail, water or flood;

7. Malicious mischief or vandalism;
8. Riot or civil commotion;
9. Contact with bird or animal; or
10. Breakage of glass.

If breakage of glass is caused by a "collision", you may elect to have it considered a loss caused by "collision".

- C. "Non-owned auto" means:

1. Any private passenger auto, pickup, van or "trailer" not owned by or furnished or available for the regular use of you or any "family member" while in the custody of or being operated by you or any "family member"; or
2. Any auto or "trailer" you do not own while used as a temporary substitute for "your covered auto" which is out of normal use because of its:
  - a. Breakdown;
  - b. Repair;
  - c. Servicing;
  - d. Loss; or
  - e. Destruction.

##### TRANSPORTATION EXPENSES

- A. In addition, we will pay, without application of a deductible, up to a maximum of \$600 for:



1. Temporary transportation expenses not exceeding \$20 per day incurred by you in the event of a loss to "your covered auto". We will pay for such expenses if the loss is caused by:
  - a. Other than "collision" only if the Declarations indicate that Other Than Collision Coverage is provided for that auto.
  - b. "Collision" only if the Declarations indicate that Collision Coverage is provided for that auto.
2. Expenses for which you become legally responsible in the event of loss to a "non-owned auto". We will pay for such expenses if the loss is caused by:
  - a. Other than "collision" only if the Declarations indicate that Other Than Collision Coverage is provided for any "your covered auto".
  - b. "Collision" only if the Declarations indicate that Collision Coverage is provided for any "your covered auto".

However, the most we will pay for any expenses for loss of use is \$20 per day.
- B. The loss is caused by:
  1. A total theft of "your covered auto" or a "non-owned auto", we will pay only expenses incurred during the period:
    - a. Beginning 48 hours after the theft; and
    - b. Ending when "your covered auto" or the "non-owned auto" is returned to use or we pay for its loss.
  2. Other than theft of a "your covered auto" or a "non-owned auto", we will pay only expenses beginning when the auto is withdrawn from use for more than 24 hours.
- C. Our payment will be limited to that period of time reasonably required to repair or replace the "your covered auto" or the "non-owned auto".

#### EXCLUSIONS

We will not pay for:

1. Loss to "your covered auto" or any "non-owned auto" which occurs while it is being used as a public or livery conveyance. This Exclusion (1.) does not apply to a share-the-expense car pool.
2. Damage due and confined to:
  - a. Wear and tear;
  - b. Freezing;
  - c. Mechanical or electrical breakdown or failure; or
  - d. Road damage to tires.

This Exclusion (2.) does not apply if the damage

results from the total theft of "your covered auto" or any "non-owned auto".

3. Loss due to or as a consequence of:
  - a. Radioactive contamination;
  - b. Discharge of any nuclear weapon (even if accidental);
  - c. War (declared or undeclared);
  - d. Civil war;
  - e. Insurrection; or
  - f. Rebellion or revolution.
4. Loss to any electronic equipment designed for the reproduction of sound and any accessories used with such equipment. This includes but is not limited to:
  - a. Radios and stereos;
  - b. Tape decks; or
  - c. Compact disc players.

This Exclusion (4.) does not apply to equipment designed solely for the reproduction of sound and accessories used with such equipment, provided:

- a. The equipment is permanently installed in "your covered auto" or any "non-owned auto"; or
- b. The equipment is:
  - (1) Removable from a housing unit which is permanently installed in the auto;
  - (2) Designed to be solely operated by use of the power from the auto's electrical system; and
  - (3) In or upon "your covered auto" or any "non-owned auto" at the time of loss.
5. Loss to any electronic equipment that receives or transmits audio, visual or data signals and any accessories used with such equipment. This includes but is not limited to:
  - a. Citizens band radios;
  - b. Telephones;
  - c. Two-way mobile radios;
  - d. Scanning monitor receivers;
  - e. Television monitor receivers;
  - f. Video cassette recorders;
  - g. Audio cassette recorders; or
  - h. Personal computers.

This Exclusion (5.) does not apply to:

- a. Any electronic equipment that is necessary for the normal operation of the auto or the monitoring of the auto's operating systems; or

- b. A permanently installed telephone designed to be operated by use of the power from the auto's electrical system and any accessories used with the telephone.
- 6. Loss to tapes, records, discs or other media used with equipment described in Exclusions 4. and 5.
- 7. A total loss to "your covered auto" or any "non-owned auto" due to destruction or confiscation by governmental or civil authorities.  
This Exclusion (7.) does not apply to the interests of Loss Payees in "your covered auto".
- 8. Loss to:
  - a. A "trailer", camper body, or motor home, which is not shown in the Declarations; or
  - b. Facilities or equipment used with such "trailer", camper body or motor home. Facilities or equipment include but are not limited to:
    - (1) Cooking, dining, plumbing or refrigeration facilities;
    - (2) Awnings or cabanas; or
    - (3) Any other facilities or equipment used with a "trailer", camper body, or motor home.

This Exclusion (8.) does not apply to a:

  - a. "Trailer", and its facilities or equipment, which you do not own; or
  - b. "Trailer", camper body, or the facilities or equipment in or attached to the "trailer" or camper body, which you:
    - (1) Acquire during the policy period; and
    - (2) Ask us to insure within 14 days after you become the owner.- 9. Loss to any "non-owned auto" when used by you or any "family member" without a reasonable belief that you or that "family member" are entitled to do so.
- 10. Loss to equipment designed or used for the detection or location of radar or laser.
- 11. Loss to any custom furnishings or equipment in or upon any pickup or van. Custom furnishings or equipment include but are not limited to:
  - a. Special carpeting or insulation;
  - b. Furniture or bars;
  - c. Height-extending roofs; or
  - d. Custom murals, paintings or other decals or graphics.

This Exclusion (11.) does not apply to a cap, cover or badliner in or upon any "your covered auto" which is a pickup.
- 12. Loss to any "non-owned auto" being

maintained or used by any person while employed or otherwise engaged in the "business" of:

- a. Selling;
  - b. Repairing;
  - c. Servicing;
  - d. Storing; or
  - e. Parking;
- vehicles designed for use on public highways. This includes road testing and delivery.
13. Loss to "your covered auto" or any "non-owned auto", located inside a facility designed for racing, for the purpose of:
  - a. Competing in; or
  - b. Practicing or preparing for; any prearranged or organized racing or speed contest.
14. Loss to, or loss of use of, a "non-owned auto" rented by:
  - a. You; or
  - b. Any "family member";

if a rental vehicle company is precluded from recovering such loss or loss of use, from you or that "family member", pursuant to the provisions of any applicable rental agreement or state law.

#### LIMIT OF LIABILITY

- A. Our limit of liability for loss will be the lesser of the:
  - 1. Actual cash value of the stolen or damaged property; or
  - 2. Amount necessary to repair or replace the property with other property of like kind and quality.

However, the most we will pay for loss to:

  - 1. Any "non-owned auto" which is a trailer is \$500.
  - 2. Equipment designed solely for the reproduction of sound, including any accessories used with such equipment, which is installed in locations not used by the auto manufacturer for installation of such equipment or accessories, is \$1,000.
- B. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss.
- C. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

## **PAYMENT OF LOSS**

We may pay for loss in money or repair or replace the damaged or stolen property. We may, at our expense, return any stolen property to:

1. You; or
2. The address shown in this policy.

If we return stolen property we will pay for any damage resulting from the theft. We may keep all or part of the property at an agreed or appraised value.

If we pay for loss in money, our payment will include the applicable sales tax for the damaged or stolen property.

## **NO BENEFIT TO BAILEE**

This insurance shall not directly or indirectly benefit any carrier or other bailee for hire.

## **OTHER SOURCES OF RECOVERY**

If other sources of recovery also cover the loss, we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. However, any insurance we provide with respect to a "non-owned auto" shall be excess over any other collectible source of recovery including, but not limited to:

1. Any coverage provided by the owner of the "non-owned auto";
2. Any other applicable physical damage insurance;
3. Any other source of recovery applicable to the loss.

## **APPRAISAL**

- A. If we and you do not agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. The appraisers will state separately the actual cash value and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:
  1. Pay its chosen appraiser; and
  2. Bear the expenses of the appraisal and umpire equally.
- B. We do not waive any of our rights under this policy by agreeing to an appraisal.

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## **PART E - DUTIES AFTER AN ACCIDENT OR LOSS**

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We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

- A. We must be notified promptly of how, when and where the accident or loss happened. Notice should also include the names and addresses of any injured persons and of any witnesses.
- B. A person seeking any coverage must:
  1. Cooperate with us in the investigation, settlement or defense of any claim or suit.
  2. Promptly send us copies of any notices or legal papers received in connection with the accident or loss.
  3. Submit, as often as we reasonably require:
    - a. To physical exams by physicians we select. We will pay for these exams.
    - b. To examination under oath and subscribe the same.
  4. Authorize us to obtain:
    - a. Medical reports; and
    - b. Other pertinent records.
  5. Submit a proof of loss when required by us.
- C. A person seeking Uninsured Motorists Coverage must also:
  1. Promptly notify the police if a hit-and-run driver is involved.
  2. Promptly send us copies of the legal papers if a suit is brought.
- D. A person seeking Coverage For Damage To Your Auto must also:
  1. Take reasonable steps after loss to protect "your covered auto" or any "non-owned auto" and their equipment from further loss. We will pay reasonable expenses incurred to do this.
  2. Promptly notify the police if "your covered auto" or any "non-owned auto" is stolen.
  3. Permit us to inspect and appraise the damaged property before its repair or disposal.

## PART F - GENERAL PROVISIONS

### BANKRUPTCY

Bankruptcy or insolvency of the "insured" shall not relieve us of any obligations under this policy.

### CHANGES

- A. This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us.
- B. If there is a change to the information used to develop the policy premium, we may adjust your premium. Changes during the policy term that may result in a premium increase or decrease include, but are not limited to, changes in:
1. The number, type or use classification of insured vehicles;
  2. Operators using insured vehicles;
  3. The place of principal garaging of insured vehicles;
  4. Coverage, deductible or limits.

If a change resulting from A. or B. requires a premium adjustment, we will make the premium adjustment in accordance with our manual rules.

- C. If we make a change which broadens coverage under this edition of your policy without additional premium charge, that change will automatically apply to your policy as of the date we implement the change in your state. This Paragraph (C.) does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:
1. A subsequent edition of your policy; or
  2. An Amendatory Endorsement.

### FRAUD

We do not provide coverage for any "insured" who has made fraudulent statements or engaged in fraudulent conduct in connection with any accident or loss for which coverage is sought under this policy.

### LEGAL ACTION AGAINST US

- A. No legal action may be brought against us until there has been full compliance with all the terms of this policy. In addition, under Part A, no legal action may be brought against us until:
1. We agree in writing that the "insured" has an obligation to pay; or
  2. The amount of that obligation has been finally determined by judgment after trial.
- B. No person or organization has any right under this policy to bring us into any action to determine the liability of an "insured".

### OUR RIGHT TO RECOVER PAYMENT

- A. If we make a payment under this policy and the person to or for whom payment was made has a right to recover damages from another we shall be subrogated to that right. That person shall do:
1. Whatever is necessary to enable us to exercise our rights; and
  2. Nothing after loss to prejudice them.
- However, our rights in this Paragraph (A.) do not apply under Part D, against any person using "your covered auto" with a reasonable belief that that person is entitled to do so.
- B. If we make a payment under this policy and the person to or for whom payment is made recovers damages from another, that person shall:
1. Hold in trust for us the proceeds of the recovery; and
  2. Reimburse us to the extent of our payment.

### POLICY PERIOD AND TERRITORY

- A. This policy applies only to accidents and losses which occur:
1. During the policy period as shown in The Declarations; and
  2. Within the policy territory.
- B. The policy territory is:
1. The United States of America, its territories or possessions;
  2. Puerto Rico; or
  3. Canada.

This policy also applies to loss to, or accidents involving, "your covered auto" while being transported between their ports.

### TERMINATION

#### A. Cancellation

This policy may be cancelled during the policy period as follows:

1. The named insured shown in the Declarations may cancel by:
  - a. Returning this policy to us; or
  - b. Giving us advance written notice of the date cancellation is to take effect.
2. We may cancel by mailing to the named insured shown in the Declarations at the address shown in this policy:
  - a. At least 10 days notice:
    - (1) If cancellation is for nonpayment of premium; or

(2) If notice is mailed during the first 60 days this policy is in effect and this is not a renewal or continuation policy; or

b. At least 20 days notice in all other cases.

3. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, we will cancel only:

a. For nonpayment of premium; or

b. If your driver's license or that of:

(1) Any driver who lives with you; or

(2) Any driver who customarily uses "your covered auto";

has been suspended or revoked. This must have occurred:

(1) During the policy period; or

(2) Since the last anniversary of the original effective date if the policy period is other than 1 year; or

c. If the policy was obtained through material misrepresentation.

#### **B. Nonrenewal**

If we decide not to renew or continue this policy, we will mail notice to the named insured shown in the Declarations at the address shown in this policy. Notice will be mailed at least 20 days before the end of the policy period. Subject to this notice requirement, if the policy period is:

1. Less than 6 months, we will have the right not to renew or continue this policy every 6 months, beginning 6 months after its original effective date.
2. 6 months or longer, but less than one year, we will have the right not to renew or continue this policy at the end of the policy period.
3. 1 year or longer, we will have the right not to renew or continue this policy at each anniversary of its original effective date.

#### **C. Automatic Termination**

If we offer to renew or continue and you or your representative do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

If you obtain other insurance on "your covered auto", any similar insurance provided by this policy will terminate as to that auto on the effective date of the other insurance.

#### **D. Other Termination Provisions**

1. We may deliver any notice instead of mailing it. Proof of mailing of any notice shall be sufficient proof of notice.
2. If this policy is cancelled, you may be entitled to a premium refund. If so, we will send you the refund. The premium refund, if any, will be computed according to our manuals. However, making or offering to make the refund is not a condition of cancellation.
3. The effective date of cancellation stated in the notice shall become the end of the policy period.

#### **TRANSFER OF YOUR INTEREST IN THIS POLICY**

A. Your rights and duties under this policy may not be assigned without our written consent. However, if a named insured shown in the Declarations dies, coverage will be provided for:

1. The surviving spouse if resident in the same household at the time of death. Coverage applies to the spouse as if a named insured shown in the Declarations; and
2. The legal representative of the deceased person as if a named insured shown in the Declarations. This applies only with respect to the representative's legal responsibility to maintain or use "your covered auto".

B. Coverage will only be provided until the end of the policy period.

#### **TWO OR MORE AUTO POLICIES**

If this policy and any other auto insurance policy issued to you by us apply to the same accident, the maximum limit of our liability under all the policies shall not exceed the highest applicable limit of liability under any one policy.

**\*MUTUAL POLICY CONDITIONS**

You are a member of the Liberty Mutual Fire Insurance Company while this policy is in force. Membership entitles you to vote in person or by proxy at meetings of the company. The Annual Meeting is in Boston, Massachusetts, on the second Wednesday in April each year at 11 o'clock in the morning.

Also, as a member, you will receive any dividends declared on this policy by the Directors.

This policy is classified in Dividend Class IV-Automobile.

This policy has been signed by our President and Secretary at Boston, Massachusetts, and countersigned on the Declarations Page by an authorized representative.

\*These conditions apply only if Liberty Mutual Fire Insurance Company is shown in the Declarations as the Insurer.

  
PRESIDENT

  
SECRETARY

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## **LIBERTY MUTUAL PRIVACY PRACTICES - OUR COMMITMENT TO OUR CUSTOMERS**

When you apply for any type of insurance, you disclose information about yourself or members of your family. The collection, use, and disclosure of such information is regulated by law. Liberty Mutual invites you to conduct business with us knowing that we protect your personal information. Liberty Mutual Insurance Company, its subsidiaries, and affiliates\*, restrict access to personal information about you to those employees who need to know that information in order to provide products or services to you. We also maintain physical, electronic, and procedural safeguards that comply with state and federal regulations to protect your personal information.

### **1. PERSONALLY IDENTIFIABLE INFORMATION COLLECTED FROM OR ABOUT YOU**

We collect nonpublic personal financial information from you, or from third parties about you, as part of the insurance application and servicing process, for example:

- Information we receive from you on applications and other forms such as your name, address, phone number, and household and driver information;
- Information about your transactions with us and our service providers such as accident information or medical information related to claims;
- Information from your employer or association for Liberty Mutual group products;
- Information we receive from consumer reporting agencies, Motor Vehicle Departments, and inspection services; and,
- Information from visitors to Liberty Mutual websites.

We use the information we collect to issue and administer insurance policies, process insurance benefits and claims, and provide services we think may be of interest to you. We also use the information as otherwise required or permitted by Federal or State law.

### **2. SHARING INFORMATION GATHERED**

We may share information about you in the normal course of conducting insurance operations, such as providing you with an insurance quote, processing, servicing, and administering your insurance policy and your claims. We are permitted by law to share information about you when you become a Liberty Mutual customer or claimant with, for example:

- A third party that performs services for us, such as claims investigations, appraisals, or the detection of fraud or misrepresentations;
- Any of our affiliated companies;
- Insurance regulatory authorities and reporting agencies;
- Your State Motor Vehicle Department to obtain a report of any accidents or convictions;
- Law enforcement agencies or other governmental authorities to report suspected illegal activities;
- Person or organizations conducting insurance actuarial or research studies, subject to appropriate confidentiality agreements; and,
- As otherwise permitted or required by law.

We are also permitted by law to disclose the following information to companies that perform marketing services on our behalf or with which we have joint marketing agreements (such as our bank, credit union, and affinity marketing partners) including:

- Information we receive from you on applications or other forms, such as your name, address, insurance coverages, vehicle and driver information, and certain claims information;
- Information about your transactions with us, our affiliates, or others, such as your insurance coverages, vehicle and driver information, and certain claims information; and,
- Information we receive from third parties, such as a consumer reporting agency, or your motor vehicle records and claims history.

Where permitted by law, we may also disclose nonpublic personal financial information (such as name, address and phone number) to non-affiliated third parties in order to provide you with information about products or services that may be of interest to you. However, we do not sell any customer information to mailing list companies or telemarketing companies.

### 3. **PROTECTING INFORMATION GATHERED AND SECURITY**

We restrict access to nonpublic personal financial information about you to those employees and agents who need to know that information to provide products or services to you and to conduct our internal operations. This information is kept internal to Liberty Mutual except when required or permitted by law and is not available to the general public. We maintain physical, electronic, and procedural safeguards that comply with applicable regulations to safeguard your nonpublic personal financial information. Liberty Mutual retains the information collected for as long as required by law or regulation.

### 4. **NOTICE & EXPLANATION OF OPT-OUT OPTION**

If you prefer that we not disclose nonpublic personal financial information about you to nonaffiliated third parties, (other than disclosures permitted or required by law) you may direct us not to make those disclosures. If you have purchased your insurance jointly with another person, either of you may opt-out and your opt-out selection will apply to all joint policyholders associated with your insurance policy and will apply to all insurance policies you have with Liberty Mutual. You will receive an annual Privacy Notice. However, if you choose to opt-out and once your request has been processed, it will remain in effect until you request a change.

If you wish to opt-out of disclosures to nonaffiliated third parties, please check-off the box on the attached "Privacy Information Opt-Out Form" and return the form to us at the address specified on the form.

\* This privacy notice is provided on behalf of the following Liberty Mutual companies and affiliates that provide personal automobile, homeowners and life insurance and annuity products and services: Liberty Mutual Fire Insurance Company, Liberty Insurance Corporation, LM Insurance Corporation, The First Liberty Insurance Corporation, Liberty Insurance Company of America, Liberty Northwest Insurance Corporation, Liberty Life Assurance Company of Boston, and Liberty Lloyds of Texas Insurance Company

*If you wish to opt-out, please complete, detach, and return the form below*

\*\*\*\*\*

#### **PRIVACY INFORMATION OPT-OUT FORM**

If you prefer that we not disclose nonpublic personal financial information about you to nonaffiliated third parties, (other than disclosures permitted or required by law) you may direct us not to make those disclosures by checking the box below and returning this completed form to: Liberty Mutual Insurance Company, P.O. Box 3008, Williamsport, PA 17701-0008. Your opt-out selection will apply to all joint policyholders associated with your insurance policy and will apply to all insurance policies you have with Liberty Mutual.

☐ Do not disclose nonpublic personal financial information about me to non-affiliated third parties except where permitted or required by law.

**Please complete the following information. Please allow 4 to 6 weeks for these changes to take effect. Once your request has been processed, it will remain in effect until you request a change.**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Policy Number (Required): \_\_\_\_\_

(It is not necessary to list all of your policy numbers, but you must include at least one for identification)

00046



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT OF POLICY PROVISIONS - UTAH**

**I. Part A - Liability Coverage**

Part A is amended as follows:

- A. Paragraph A. of the Insuring Agreement is replaced by the following:

**INSURING AGREEMENT**

We will pay damages for "bodily injury" or "property damage" for which any "insured" becomes legally responsible because of an auto accident. We will settle or defend, as we consider appropriate, any claim or suit asking for these damages. In addition to our limit of liability, we will pay all defense costs we incur. Our duty to settle or defend ends when our limit of liability for this coverage has been exhausted by payment of judgments or settlements. We have no duty to defend any suit or settle any claim for "bodily injury" or "property damage" not covered under this policy.

- B. The following exclusion is added:

We do not provide Liability Coverage for any "insured" for "bodily injury" to you to the extent that the limits of liability for this coverage exceed the applicable minimum limits for liability specified by UTAH CODE ANN. Section 31A-22-304. The applicable minimum limits are:

1. \$65,000 for each accident, if the limit of liability for this coverage is a single limit that applies for each accident; or
2. \$25,000 for each person/\$50,000 for each accident, if the limit of liability for this coverage is indicated as a split limit.

- C. The Other Insurance Provision is replaced by the following:

**OTHER INSURANCE**

1. If there is other applicable liability insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits. Except as provided in 2. and 3. below, any insurance we provide for a vehicle you do not own shall be excess over any other collectible insurance.

2. We will provide primary insurance for a vehicle you do not own if the vehicle is insured under a policy affording coverage to a named insured engaged in the "business" of:

- a. Selling;
- b. Repairing;
- c. Servicing;
- d. Storing; or
- e. Parking;

motor vehicles. This applies only if an "insured":

- a. Is operating the vehicle; and
- b. Is neither the person engaged in such "business" nor that person's employee or agent.

3. If the vehicle you do not own is a rental private passenger motor vehicle, the following priorities of recovery apply:

<b>FIRST PRIORITY</b>	Any source of recovery purchased by you or any "family member" from the owner of the rental private passenger motor vehicle.
<b>SECOND PRIORITY</b>	Any policy affording Liability Coverage to the "insured" as a named insured or "family member".

**II. Part C - Uninsured Motorists Coverage**

Part C is amended as follows:

- A. The definition of "insured" is replaced by the following:

"Insured" means:

1. You.
2. Any "family member" including those who usually make their home in your household but temporarily live elsewhere.

3. Any other person "occupying" "your covered auto".
  4. Any person for damages that person is entitled to recover because of "bodily injury" to which this coverage applies sustained by a person described in 1., 2. or 3. above.
- B. Sections 2., 3. and 4. of the definition of "uninsured motor vehicle" are replaced by the following:
- "Uninsured motor vehicle" means a land motor vehicle or trailer of any type:
2. To which a bodily injury liability bond or policy applies at the time of the accident. In this case its limit for bodily injury liability must be less than the applicable minimum limits for bodily injury liability specified by UTAH CODE ANN. Section 31A-22-304. The applicable minimum limits are:
    - a. \$65,000 for each accident, if the limit of liability is a single limit that applies for each accident; or
    - b. \$25,000 for each person/\$50,000 for each accident, if the limit of liability is indicated as a split limit.
  3. Which is a hit-and-run vehicle whose operator or owner cannot be identified and which hits or causes an accident resulting in "bodily injury" without hitting:
    - a. You or any "family member";
    - b. A vehicle which you or any "family member" are "occupying"; or
    - c. "Your covered auto".

If there is no physical contact with the hit-and-run vehicle the facts of the accident must be proved. We will only accept clear and convincing evidence, which must consist of more than the "insured's" testimony.
  4. To which a bodily injury liability bond or policy applies at the time of the accident but the bonding or insuring company:
    - a. Denies coverage;
    - b. Is or becomes insolvent; or
    - c. Fails to confirm coverage within 60 days from the date such company receives notification of a claim by or on behalf of the "insured".

- C. The Other Insurance Provision is replaced by the following:

#### OTHER INSURANCE

If there is other applicable similar insurance available under one or more policies or provisions of coverage that is similar to the insurance provided under this Part of the policy:

1. Any recovery for damages sustained by you or any "family member" under all such policies or provisions of coverage:
  - a. While "occupying" a vehicle owned by you or any "family member" may equal, but not exceed, the highest applicable limit of liability for Uninsured Motorists Coverage for any one vehicle under any insurance providing coverage on either a primary or excess basis.
  - b. While "occupying" a vehicle not owned by you or any "family member" may equal, but not exceed, the sum of:
    - (1) The limit of liability for Uninsured Motorists Coverage applicable to the vehicle you or any "family member" were "occupying" at the time of the accident; and
    - (2) The highest applicable limit of liability for Uninsured Motorists Coverage for any one vehicle under any insurance providing coverage to you or any "family member".
  - c. While not "occupying" any vehicle may equal, but not exceed, the highest applicable limit of liability for Uninsured Motorists Coverage for any one vehicle under any insurance providing coverage to you or any "family member".
2. Except as provided in 3. below, any insurance we provide with respect to a vehicle you do not own shall be excess over any collectible insurance providing such coverage on a primary basis.

3. If the vehicle you do not own is a rental private passenger motor vehicle, the following priorities of recovery apply:

<b>FIRST PRIORITY</b>	Any source of recovery purchased by you or any "family member" from the owner of the rental private passenger motor vehicle.
<b>SECOND PRIORITY</b>	Any policy affording Uninsured Motorists Coverage to the "insured" as a named insured or "family member".

4. If the coverage under this policy is provided:

- On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage provided on a primary basis.
- On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage provided on an excess basis.

- D. The Arbitration Provision is replaced by the following:

#### ARBITRATION

- This provision does not apply if a small claims court having jurisdiction resolves the matter or matters upon which the parties do not agree.
- If we and an "insured" do not agree:
  - Whether that "insured" is legally entitled to recover damages; or
  - As to the amount of damages which are recoverable by that "insured";

from the owner or operator of an "uninsured motor vehicle", then the matter may be arbitrated. However, disputes concerning coverage under this Part may not be arbitrated.

Either party may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction.

3. Each party will:

- Pay the expenses it incurs; and
  - Bear the expenses of the third arbitrator equally.
4. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding as to:
- Whether the "insured" is legally entitled to recover damages; and
  - The amount of damages.

#### III. Part E - Duties After An Accident Or Loss

The following is added to Paragraph A. of Part E:

Notice to our authorized representative is considered notice to us.

#### IV. Part F - General Provisions

Part F is amended as follows:

- A. The following is added to the Our Right To Recover Payment Provision:

#### OUR RIGHT TO RECOVER PAYMENT

We shall be entitled to a recovery under Paragraph A. or B. only after the person has been fully compensated for damages.

- B. The Termination Provision is replaced by the following:

#### TERMINATION

##### A. Cancellation

This policy may be cancelled during the policy period as follows:

- The named insured shown in the Declarations may cancel by:
  - Returning this policy to us; or
  - Giving us advance written notice of the date cancellation is to take effect.
- We may cancel by mailing by first class mail to the named insured shown in the Declarations at the address last known by us:
  - At least 10 days notice:
    - If cancellation is for nonpayment of premium; or
    - If notice is mailed during the first 60 days this policy is in effect and this is not a renewal or continuation policy; or
  - At least 30 days notice in all other cases.

3. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, we will cancel only:

- a. For nonpayment of premium; or
- b. If your driver's license or that of:
  - (1) Any driver who lives with you; or
  - (2) Any driver who customarily uses "your covered auto";has been suspended or revoked. This must have occurred:
  - (1) During the policy period; or
  - (2) Since the last anniversary of the original effective date if the policy period is other than 1 year; or
- c. If the policy was obtained through material misrepresentation.

#### **B. Nonrenewal**

If we decide not to renew or continue this policy, we will mail notice to the named insured shown in the Declarations at the address last known by us. Notice will be mailed by first class mail at least 30 days before the end of the policy period. Subject to this notice requirement, if the policy period is:

- 1. Less than 6 months, we will have the right not to renew or continue this policy every 6 months, beginning 6 months after its original effective date.
- 2. 6 months or longer, but less than one year, we will have the right not to renew or continue this policy at the end of the policy period.
- 3. 1 year or longer, we will have the right not to renew or continue this policy at each anniversary of its original effective date.

#### **C. Automatic Termination**

If we offer to renew or continue and you or your representative do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

If you obtain other insurance on "your covered auto", any similar insurance provided by this policy will terminate as to that auto on the effective date of the other insurance.

#### **D. Other Termination Provisions**

- 1. We may deliver any notice instead of mailing it. Proof of mailing of any notice shall be sufficient proof of notice.
- 2. If this policy is cancelled, you may be entitled to a premium refund. If so, we will send you the refund. The premium refund, if any, will be computed according to our manuals. However, making or offering to make the refund is not a condition of cancellation.
- 3. The effective date of cancellation stated in the notice shall become the end of the policy period.

#### **V. Named Non-Owner Coverage Endorsement**

If the Named Non-Owner Coverage and the Property Damage Uninsured Motorists Coverage Endorsements are attached to the policy, the Named Non-Owner Coverage Endorsement is amended as follows:

Section IV - Part C - Uninsured Motorists Coverage is amended as follows:

#### **PART C - UNINSURED MOTORISTS COVERAGE**

Paragraph C.2. of the Limit Of Liability Provision does not apply.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

**AUTOMATIC TERMINATION ENDORSEMENT**

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The AUTOMATIC TERMINATION Provision in Part F of the policy is replaced with the following:

**AUTOMATIC TERMINATION.** If you obtain other insurance on "your covered auto," any similar insurance provided by this policy will terminate as to that auto on the effective date of the other insurance.

PF

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**NEW VEHICLE REPLACEMENT COST COVERAGE**

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

In the event of a covered total loss to a new "your covered auto" shown in the Declarations for which a specific premium charge indicates that "Collision" Coverage and/or Other Than Collision Coverage applies, the "covered auto" will be replaced at the Actual Cash Value (less any applicable deductible) without adjustments for depreciation that is referenced in the Limit of Liability B. Section of Part D of the policy.

\* A new vehicle as used in this endorsement is one that has not been previously titled under the motor vehicle laws of any state.

Replacement Cost for a total loss on a new "your covered auto" applies as follows:

- a. total loss must occur during the first 12 months of insurance coverage, and
- b. within the vehicle's first 15,000 miles,

whichever occurs first, we will pay, at our option, the full cost of repair or replacement, less the applicable deductible.

This does not apply to a substitute automobile, a non-owned automobile or a vehicle leased under a long-term contract of 6 months or longer.

The following conditions apply:

1. Our liability for any loss will not be more than the cost to replace the damaged property with:
  - a. a previously untitled vehicle of the year, make, model and equipment of the damaged automobile or, if unavailable
  - b. a vehicle that is most similar in class and body type to the year, make, model and equipment of the damaged automobile.
2. We will not pay for any loss before the actual repair or replacement is completed.
3. We have the right to pay the loss in money or to repair or replace the damaged automobile.

For purposes of this endorsement, Total Loss means a loss in which the cost to replace or repair the vehicle to its pre-loss condition plus salvage value, equals or exceeds the actual cost value.



## RATING INFORMATION

(Pleasure use, Business use, Commuting, and Ages of Operators)

The premiums on your policy are based principally on the use of the car and the ages of the regular operators. The principal rating factors are shown below and the corresponding **RATING CLASS** numbers are shown under **RATING CLASS** on the policy.

**A - RESIDENT STUDENTS** - Youthful unmarried occasional operators away at school over 100 miles from the place of principal garaging of the car are classified as **RESIDENT STUDENTS**.

**B - CAR POOL DISCOUNT** - Automobiles used in Car Pools for driving to or from work on less than a daily basis shall be classified as follows:

1. Cars in the "commuting 3 or more but less than 10 miles" classifications shall be classified as "commuting less than 3 miles" if the total usage of the car in driving to or from work is not more than two days per week or not more than two weeks per each five week period.
2. Cars in the "commuting 10 or more miles" classifications shall be classified as "commuting 3 or more but less than 10 miles" if the total usage of the car in driving to or from work is not more than two days per week or not more than two weeks per each five week period.

### Rating Class

### PRINCIPAL COMPONENTS OF APPLICABLE CLASSIFICATIONS

- |          |   |   |
|----------|---|---|
| 01, 07*  | Pleasure use - no youthful operators - commuting less than 3 miles one way - principal operator age 40-64.  |   |
| 02, 08*  | No youthful operators - commuting 3 or more but less than 10 miles one way - principal operator age 40-64.  |   |
| 03, 09*  | No youthful operators - commuting 10 or more miles one way - principal operator age 40-64.  |   |
| 04, 05*  | Business use - no youthful operators - principal operator age 40-64.  |   |
| 11, 24*  | Pleasure use - no youthful operators - commuting less than 3 miles one way - no principal operator over age 39  | } Class 11, 12, 13<br>May include an<br>unmarried female<br>RESIDENT STUDENT<br>under<br>25 years of age. |
| 12, 25*  | No youthful operators - commuting 3 or more but less than 10 miles one way - no principal operator over age 39.   |   |
| 13, 26*  | No youthful operators - commuting 10 or more miles one way - no principal operator over age 39.   |   |
| 15       | Farm use - no youthful operators - no commuting use - no principal operator age 65 or over.   |   |
| 20, 27*  | No youthful operators - commuting less than 3 miles one way - uses auto less than 7500 miles annually - no principal operator over age 39.                |   |
| 22, 28*  | No youthful operators - commuting 3 or more but less than 10 miles one way - uses auto less than 7500 miles annually - no principal operator over age 39. |   |
| 30, 98*  | Business use - no youthful operators - no principal operator over age 39.   |   |
| 36, 56** | Unmarried female occasional operator under 21 years of age.   |   |
| 37, 57** | Unmarried female principal operator under 21 years of age.  |   |
| 38, 58** | Unmarried female occasional operator 21-24 years of age.  |   |

**Rating Class****PRINCIPAL COMPONENTS OF APPLICABLE CLASSIFICATIONS**

- 39, 59\*\*** Unmarried female principal operator 21-24 years of age.
- 46, 48\*** No youthful operators - commuting less than 3 miles one way - uses auto less than 7500 miles annually - principal operator age 40-64.
- 47, 49\*** No youthful operators - commuting 3 or more but less than 10 miles one way- uses auto less than 7500 miles annually - principal operator age 40-64.
- 51, 55\*\*** Unmarried male principal operator age 25-29.
  - 52** Unmarried male principal operator age 25-29 insured with Liberty Mutual for 40 months without any accidents or convictions or have obtained a bachelor's degree or higher.
  - 53\*\*** Unmarried male principal operator age 25-29 insured with Liberty Mutual for 40 months without any accidents or convictions.
- 60, 99\*** Business use - no youthful operators - there is a principal operator age 65 or over.
- 61, 67\*** Pleasure use - no youthful operators - commuting less than 3 miles one way - there is a principal operator age 65 or over.
- 62, 68\*** No youthful operators - commuting 3 or more but less than 10 miles one way - there is a principal operator age 65 or over.
- 63, 69\*** No youthful operators - commuting 10 or more miles one way - there is a principal operator age 65 or over.
  - 65** Farm use - no youthful operators - no commuting use - there is a principal operator age 65 or over.
- 81, 85\*\*** Unmarried male occasional operator under 21 years of age.
- 82, 86\*\*** Married male operator under 21 years of age or unmarried male **RESIDENT STUDENT** under 21 years of age.
- 83, 87\*\*** Unmarried male principal operator under 21 years of age.
- 91, 95\*\*** Unmarried male occasional operator 21-24 years of age.
- 92, 96\*\*** Married male operator 21-24 years of age or unmarried male **RESIDENT STUDENT** 21-24 years of age.
- 93, 97\*\*** Unmarried male principal operator 21-24 years of age.

\* Homeowner, all adult operators are accident free and motor vehicle violation conviction free for 40 months. However, if the policy has been in force for 36 months, one minor motor vehicle violation by an adult operator is permitted. For new and renewal multi-car policies, one minor motor vehicle violation by an adult operator is permitted. Or, if the policy has been in force for 60 months, one accident by an adult operator is permitted. Only one of these exceptions may apply to the policy.

\*\*Automobile also has a farm use.





### ***BILLING INFORMATION***

Your premium notice will be mailed to you in a few days. When it arrives, you may choose a method of payment to suit your budget.

### ***THE CHOICE IS YOURS***

You may pay the entire premium in full without additional charge. Your payment must be received by the due date shown on the premium notice.

### ***OR***

You may pay the premium in installments after a down payment and the balance in 10 monthly installments (minimum \$30). Should you elect to pay by the month, your next bill and all subsequent bills, whether or not there is a minimum amount due, will include a \$4.00 Billing Expense Fee (shown under "Finance Charge") reflected in your monthly payment.

### ***PREMIUM PAYMENT PLAN EXAMPLES*** ***(Minimum of \$30 a month)***

<b>If The Total Policy Premium Is:</b>	<b>And You Put Down:</b>	<b>The Balance Subject To Billing Fee Will Be:</b>	<b>The Total Number of Monthly Installments (\$30 Minimum) Will Be:</b>	<b>The Monthly Installment Before Adding The Billing Fee Will Be:</b>	<b>The Total Billing Fee For All Installments Will Be:</b>	<b>And The Total Deferred Payment Price Will Be</b>
\$ 100	\$ 30.00	\$ 70.00	3	\$ 30.00	\$ 12.00	\$ 112.00
\$ 200	\$ 50.00	\$150.00	5	\$ 30.00	\$20.00	\$ 220.00
\$ 300	\$ 75.00	\$225.00	8	\$ 30.00	\$32.00	\$ 332.00
\$ 400	\$100.00	\$300.00	10	\$ 30.00	\$40.00	\$ 440.00
\$ 500	\$150.00	\$350.00	10	\$ 35.00	\$40.00	\$ 540.00
\$ 600	\$200.00	\$400.00	10	\$ 40.00	\$40.00	\$ 640.00
\$ 800	\$200.00	\$600.00	10	\$ 60.00	\$40.00	\$ 840.00
\$1000	\$250.00	\$750.00	10	\$ 75.00	\$40.00	\$1040.00

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**COVERAGE FOR DAMAGE TO YOUR AUTO EXCLUSION ENDORSEMENT**

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

**I. Definitions**

The following definition is added:

"Diminution in value" means the actual or perceived loss in market or resale value which results from a direct and accidental loss.

**II. Part D - Coverage For Damage To Your Auto**

The following exclusion is added:

We will not pay for:

Loss to "your covered auto" or any "non-owned auto" due to "diminution in value".

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

# TOWING AND LABOR COSTS COVERAGE

PP 03 03 04 88

## SCHEDULE

Description of Your Covered Auto	Limit of Towing and Labor Costs Coverage	Premium
	\$	\$
	\$	\$
	\$	\$

We will pay towing and labor costs incurred each time "your covered auto" or any "non-owned auto" is disabled, up to the amount shown in the Schedule or in the Declarations as applicable to that vehicle. If a "non-owned auto" is disabled, we will provide the

broadest towing and labor costs coverage applicable to any "your covered auto" shown in the Schedule or in the Declarations. We will only pay for labor performed at the place of disablement.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

PP 03 03 04 88

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PROPERTY DAMAGE UNINSURED MOTORISTS COVERAGE - UTAH****SCHEDULE**

Description Of Vehicle	Premium	Limit Of Liability
_____	\$ _____	\$3,500
_____	\$ _____	\$3,500
_____	\$ _____	\$3,500

Coverage is subject to a \$250 deductible.

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

**INSURING AGREEMENT**

We will pay compensatory damages which you are legally entitled to recover from the owner or operator of an "uninsured motor vehicle" because of "property damage" caused by an accident arising out of actual physical contact with "your covered auto". The owner's or operator's liability for these damages must arise out of the ownership, maintenance or use of the "uninsured motor vehicle". We will pay under this coverage only if the Schedule or Declarations indicate that Property Damage Uninsured Motorists Coverage is provided for the "your covered auto" involved in the accident.

Any judgment for damages arising out of a suit brought without our consent is not binding on us.

"Property damage" as used in this endorsement means injury to or destruction of "your covered auto". However, "property damage" does not include:

1. Loss of use of "your covered auto"; or
2. Damage to personal property contained in "your covered auto".

"Uninsured motor vehicle" means a land motor vehicle or trailer of any type:

1. To which no liability bond or policy affording coverage for "property damage" applies at the time of the accident.

2. To which a liability bond or policy affording coverage for "property damage" applies at the time of the accident. In this case, its limit for property damage liability must be less than the applicable minimum limits for property damage liability specified by UTAH CODE ANN. Section 31A-22-304. The applicable minimum limits are:

- a. \$65,000 for each accident, if the limit of liability is a single limit that applies for each accident; or
- b. \$15,000 for each accident, if the limit of liability is indicated as a split limit.

3. To which a liability bond or policy affording coverage for "property damage" applies at the time of the accident but the bonding or insuring company:

- a. Is or becomes insolvent; or
- b. Fails to confirm coverage within 60 days from the date such company receives notification of a claim by or on behalf of the "insured".

However, "uninsured motor vehicle" does not include any vehicle or equipment:

1. Owned by or furnished or available for the regular use of you or any "family member".
2. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer which is or becomes insolvent.

3. Owned by any governmental unit or agency.
4. Operated on rails or crawler treads.
5. Designed mainly for use off public roads while not on public roads.
6. While located for use as a residence or premises.

#### EXCLUSIONS

- A. We do not provide Property Damage Uninsured Motorists Coverage for "property damage":
1. If you or your legal representative settles the "property damage" claim without our consent.
  2. When "your covered auto" is being used as a public or livery conveyance. This Exclusion (A.2.) does not apply to a share-the-expense car pool.
  3. For the first \$250 of the amount of the "property damage" to each of "your covered autos" as the result of any one accident.
  4. To any motor vehicle owned by you or any "family member" which is not insured for this coverage under this policy or any other policy. This includes a trailer of any type used with that vehicle.
  5. If the owner, operator or license plate number of the "uninsured motor vehicle" cannot be identified.
- B. This coverage shall not apply directly or indirectly to benefit any insurer of the property.
- C. We do not provide Property Damage Uninsured Motorists Coverage for punitive or exemplary damages.

#### LIMIT OF LIABILITY

Our maximum limit of liability for all damages resulting from any one accident will be the lesser of:

1. The limit of liability shown in the Schedule or in the Declarations; or
2. The actual cash value of "your covered auto".

This is the most we will pay, regardless of the number of:

1. Claims made;
2. Vehicles or premiums shown in the Schedule or in the Declarations; or
3. Vehicles involved in the accident.

An adjustment for depreciation and physical condition will be made in determining actual cash value at the time of loss.

Any amounts otherwise payable for damages under this coverage shall be reduced by all sums paid because of the "property damage" by or on behalf of persons or organizations who may be legally responsible.

#### OTHER INSURANCE

If there is any other similar insurance available under more than one policy or provision of coverage that is similar to the insurance provided under this endorsement:

1. The maximum recovery under all policies combined will not exceed \$3,500 for any one vehicle.
2. Any insurance we provide with respect to a vehicle you do not own shall be excess over any other collectible insurance providing such coverage on a primary basis.
3. We will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits covering on the same level of priority.

#### ARBITRATION

1. This provision does not apply if a small claims court having jurisdiction resolves the matter or matters upon which the parties do not agree.
2. If we and an "insured" do not agree:

- a. Whether you are legally entitled to recover damages for "property damage"; or
- b. As to the amount of damages which are recoverable by that "insured";

from the owner or operator of an "uninsured motor vehicle", then the matter may be arbitrated. However, disputes concerning coverage under this endorsement may not be arbitrated.

Either party may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction.

3. Each party will:
  - a. Pay the expenses it incurs; and
  - b. Bear the expenses of the third arbitrator equally.

4. Unless both parties agree otherwise, arbitration will take place in the county in which you live. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding as to:

- a. Whether you are legally entitled to recover damages for "property damage"; and
- b. The amount of such damages.

#### **ADDITIONAL DUTIES AFTER AN ACCIDENT OR LOSS**

A person seeking coverage under this endorsement, or someone on that person's behalf, must also:

1. Promptly send us copies of the legal papers if a suit is brought.
2. Report the accident within 10 days to us or our authorized representative.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## UNDERINSURED MOTORISTS COVERAGE - UTAH

## SCHEDULE

Limit Of Liability	Premium		
	Auto 1	Auto 2	Auto 3
\$ _____ each person	\$ _____	\$ _____	\$ _____
\$ _____ each accident			

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

## INSURING AGREEMENT

A. We will pay compensatory damages which an "insured" is legally entitled to recover from the owner or operator of an "underinsured motor vehicle" because of "bodily injury":

1. Sustained by an "insured"; and
2. Caused by an accident.

The owner's or operator's liability for these damages must arise out of the ownership, maintenance or use of the "underinsured motor vehicle".

We will pay damages under this coverage caused by an "underinsured motor vehicle" only if Paragraphs 1. or 2. below applies:

1. The limits of liability under any bodily injury liability bonds or policies applicable to the "underinsured motor vehicle" have been exhausted by payment of judgments or settlements; or
2. A tentative settlement has been made between an "insured" and the insurer of the "underinsured motor vehicle" and we:
  - a. Have been given prompt written notice of such tentative settlement; and
  - b. Advance payment to the "insured" is an amount equal to the tentative settlement within 5 business days after receipt of notification.

B. "Insured" as used in this endorsement means:

1. You.
2. Any "family member" including those who usually make their home in your household but temporarily live elsewhere.
3. Any other person "occupying" "your covered auto".

4. Any person for damages that person is entitled to recover because of "bodily injury" to which this coverage applies sustained by a person described in Paragraphs 1., 2. or 3. above.

C. "Underinsured motor vehicle" means a land motor vehicle or trailer of any type to which a bodily injury liability bond or policy applies at the time of the accident but the amount paid for "bodily injury" under that bond or policy to an "insured" is not enough to pay the full amount the "insured" is legally entitled to recover as damages.

However, "underinsured motor vehicle" does not include any vehicle or equipment:

1. To which a bodily injury liability bond or policy applies at the time of the accident but its limit for bodily injury liability is less than the applicable minimum limits for bodily injury liability specified by UTAH CODE ANN. Section 31A-22-304. The applicable minimum limits are:
  - a. \$65,000 for each accident, if the limit of liability is a single limit that applies for each accident; or
  - b. \$25,000 for each person/\$50,000 for each accident, if the limit of liability is indicated as a split limit.
2. Owned by or furnished or available for the regular use of you or any "family member".
3. Owned by any governmental unit or agency.
4. Operated on rails or crawler treads.
5. Designed mainly for use off public roads while not upon public roads.
6. While located for use as a residence or premises.
7. Owned or operated by a person qualifying as a self-insurer under any applicable motor vehicle law.

8. To which a bodily injury liability bond or policy applies at the time of the accident but the bonding or insuring company:

- a. Denies coverage; or
- b. Is or becomes insolvent.

#### EXCLUSIONS

A. We do not provide Underinsured Motorists Coverage for "bodily injury" sustained:

1. By an "insured" while "occupying", or when struck by, any motor vehicle owned by that "insured" which is not insured for this coverage under this policy. This includes a trailer of any type used with that vehicle.
2. By any "family member" while "occupying", or when struck by, any motor vehicle you own which is insured for this coverage on a primary basis under any other policy.

B. We do not provide Underinsured Motorists Coverage for "bodily injury" sustained by any "insured":

1. While "occupying" "your covered auto" when it is being used as a public or livery conveyance. This Exclusion (B.1.) does not apply to a share-the-expense car pool.
2. Using a vehicle without a reasonable belief that that "insured" is entitled to do so. This Exclusion (B.2) does not apply to a "family member" using "your covered auto" which is owned by you.

C. This coverage shall not apply directly or indirectly to benefit any insurer or self-insurer under any of the following or similar law:

1. Workers' compensation law; or
2. Disability benefits law.

D. We do not provide Underinsured Motorists Coverage for punitive or exemplary damages.

#### LIMIT OF LIABILITY

A. The limit of liability shown in the Schedule or in the Declarations for each person for Underinsured Motorists Coverage is our maximum limit of liability for all damages, including damages for care, loss of services or death, arising out of "bodily injury" sustained by any one person in any one accident. Subject to this limit for each person, the limit of liability shown in the Schedule or in the Declarations for each accident for Underinsured Motorists Coverage is our maximum limit of liability for all damages for "bodily injury" resulting from any one accident.

This is the most we will pay regardless of the number of:

1. "Insureds";
2. Claims made;

3. Vehicles or premiums shown in the Schedule or in the Declarations; or

4. Vehicles involved in the accident.

B. No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and Part A, Part B or Part C of this policy.

C. We will not make a duplicate payment under this coverage for any element of loss for which payment has been made by or on behalf of persons or organizations who may be legally responsible.

D. We will not pay for any element of loss if a person is entitled to receive payment for the same element of loss under any of the following or similar law:

1. Workers' compensation law; or
2. Disability benefits law.

#### OTHER INSURANCE

If there is other applicable similar insurance available under one or more policies or provisions of coverage that is similar to the insurance provided under this endorsement:

1. Any recovery for damages sustained by you or any "family member" under all such policies or provisions of coverage:

a. While "occupying" a vehicle owned by you or any "family member" may equal, but not exceed, the highest applicable limit of liability for Underinsured Motorists Coverage for any one vehicle under any insurance providing coverage on either a primary or excess basis.

b. While "occupying" a vehicle not owned by you or any "family member" may equal, but not exceed, the sum of:

(1) The limit of liability for Underinsured Motorists Coverage applicable to the vehicle you or any "family member" were "occupying" at the time of the accident; and

(2) The highest applicable limit of liability for Underinsured Motorists Coverage for any one vehicle under any insurance providing coverage to you or any "family member".

c. While not "occupying" any vehicle may equal, but not exceed, the highest applicable limit of liability for Underinsured Motorists Coverage for any one vehicle under any insurance providing coverage to you or any "family member".



2. Except as provided in Paragraph 3. below, any insurance we provide with respect to a vehicle you do not own shall be excess over any collectible insurance providing such coverage on a primary basis.
3. If the vehicle you do not own is a rental private passenger motor vehicle, the following priorities of recovery apply:

<b>FIRST PRIORITY</b>	Any source of recovery purchased by you or any "family member" from the owner of the rental private passenger motor vehicle.
<b>SECOND PRIORITY</b>	Any policy affording Underinsured Motorists Coverage to the "insured" as a named insured or "family member".

4. If the coverage under this policy is provided:
  - a. On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage provided on a primary basis.
  - b. On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage provided on an excess basis.

#### ARBITRATION

1. This provision does not apply if a small-claims court having jurisdiction resolves the matter or matters upon which the parties do not agree.
2. If we and an "insured" do not agree:
  - a. Whether that "insured" is legally entitled to recover damages; or
  - b. As to the amount of damages which are recoverable by that "insured";
 from the owner or operator of an "underinsured motor vehicle", then the matter may be arbitrated. However, disputes concerning coverage under this endorsement may not be arbitrated.

Either party may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction.

#### 3. Each party will:

- a. Pay the expenses it incurs; and
  - b. Bear the expenses of the third arbitrator equally.
4. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding as to:
    - a. Whether the "insured" is legally entitled to recover damages; and
    - b. The amount of damages.

#### ADDITIONAL DUTIES

A person seeking coverage under this endorsement must also promptly:

1. Send us copies of the legal papers if a suit is brought; and
2. Notify us in writing of a tentative settlement between the "insured" and the insurer of the "underinsured motor vehicle" and allow us 5 business days to advance payment to that "insured" in an amount equal to the tentative settlement to preserve our rights against the insurer, owner or operator of such "underinsured motor vehicle".

#### GENERAL PROVISIONS

The following is added to the Our Right To Recover Payment Provision in Part F:

#### OUR RIGHT TO RECOVER PAYMENT

Our rights do not apply under Paragraph A. with respect to Underinsured Motorists Coverage if we:

1. Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of an "underinsured motor vehicle"; and
2. Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 5 business days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 5 business days after receipt of notification:

1. That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Underinsured Motorists Coverage; and
2. We also have a right to recover the advanced payment.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PERSONAL INJURY PROTECTION COVERAGE - UTAH**

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by this endorsement.

**SCHEDULE**☐ **Basic Personal Injury Protection Benefits****Benefits**

Medical Expenses

Work Loss

Funeral Expenses

Survivors' Loss

**Limit Of Liability**

\$3,000

85% of gross income up to a  
maximum of \$250 per week and  
\$20 per day for essential services

\$1,500

\$3,000

If indicated below or in the Declarations, Added Personal Injury Protection Benefits apply instead of Basic Personal Injury Protection Benefits, to the "named insured" or any "family member".

☐ **Added Personal Injury Protection Benefits****Benefits**

Medical Expenses

Work Loss

Funeral Expenses

Survivors' Loss

**Limit Of Liability**

\$ \_\_\_\_\_

\$ \_\_\_\_\_ per week

\$1,500

\$3,000

**REJECTION OF LOSS OF INCOME**☐ If indicated to the left or if REJECTION OF LOSS OF INCOME is indicated in the Declarations, the loss of income coverage included in the work loss benefit does not apply to the "named insured" and spouse.**I. Definitions**

The Definitions Section is amended as follows:

**A. The following definitions are replaced:****1. "Family member" means:**

A spouse or any other person related to the "named insured" by blood, marriage or adoption, including a ward or foster child who:

- a. Is a resident of the "named insured's" household; or
- b. Usually makes his home in the same household but temporarily lives elsewhere.

**2. "Occupying" means:**

- a. Being in or upon a "motor vehicle" as a passenger or operator; or
- b. Engaged in the immediate act of entering, boarding or alighting from a "motor vehicle".

**3. "Your covered auto" means a "motor vehicle":**

- a. To which the bodily injury liability coverage of this policy applies and for which a specific premium is charged; and
- b. For which the "named insured" is required by the Utah Motor Vehicle Act to maintain security.

**B. The following definitions are added:**

**1. "Motor vehicle" means any:**

- a. Self-propelled vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles; and
- b. Vehicle which is propelled by electric power obtained from overhead wires but which is not operated on rails.

However, "motor vehicle" does not include:

- a. Traction engines;
  - b. Road rollers;
  - c. Farm tractors;
  - d. Tractor cranes;
  - e. Power shovels; or
  - f. Well drillers.
- 2. "Pedestrian" means any person not "occupying" or riding upon a "motor vehicle".**

**C. As used in this endorsement:**

**1. "Insured" means:**

- a. The "named insured" or any "family member" who sustains "bodily injury" caused by an accident involving any "motor vehicle".
- b. Any other person who sustains "bodily injury" caused by an accident while:
  - (1) "Occupying" "your covered auto" with the consent of the "named insured";
  - (2) "Occupying" any other "motor vehicle" operated by the "named insured" or any "family member"; or
  - (3) A "pedestrian" if the accident involves "your covered auto" and occurs in Utah.

However, "insured" does not include:

- a. The "named insured" who sustains "bodily injury" resulting from the use or operation of any "motor vehicle", other than "your covered auto", which is owned by the "named insured".
- b. Any "family member" who sustains "bodily injury" resulting from the use or operation of any "motor vehicle", other than "your covered auto", which is owned by that "family member".

- c. Any person, other than the "named insured" or any "family member" who sustains "bodily injury" while "occupying" any "motor vehicle" when it is being used as a public or livery conveyance.

- 2. "Named insured" means the person in the Declarations.

**II. Personal Injury Protection Coverage**

**A. Basic Personal Injury Protection Benefits INSURING AGREEMENT**

- 1. We will pay basic personal injury protection benefits to or for an "insured" who sustains "bodily injury". The "bodily injury" must be caused by an accident involving the use of a "motor vehicle" as a motor vehicle.
- 2. Subject to the limits shown in the Schedule or Declarations, basic personal injury protection benefits consist of the following:

**a. Medical Expenses**

Reasonable expenses incurred for any necessary:

- (1) Medical, surgical, x-ray, dental and rehabilitation services; and
- (2) Prosthetic devices, ambulance, hospital and nursing services.

*This includes any non-medical remedial care and treatment rendered in accordance with a recognized religious method of healing. However, medical expenses do not include expenses in excess of those for a semiprivate room, unless more intensive care is medically required.*

**b. Work Loss**

- (1) Loss of income and earning capacity by an "insured" during his lifetime because of the inability to work during a period beginning 3 days after the date of loss of income and earning capacity resulting from the "bodily injury" and continuing for a maximum of 52 consecutive weeks. The 3 day waiting period shall not apply if the "insured's" inability to work continues for more than a total of 2 consecutive weeks after the date of loss of income and earning capacity resulting from the "bodily injury".

- (2) An allowance for services actually rendered or expenses reasonably incurred for services an "insured" would have performed during his lifetime for his household had he not sustained "bodily injury". This allowance begins 3 days after the date of "bodily injury" and continues for a maximum of 365 consecutive days. The 3 day waiting period shall not apply if the "insured's" inability to perform such services continues for more than 2 consecutive weeks after the date of "bodily injury".

**c. Funeral Expenses**

Funeral, burial or cremation expenses incurred.

**d. Survivors' Loss**

Compensation because of an "insured's" death. We will pay survivors' loss only to natural persons who are the "insured's" heirs.

**B. Added Personal Injury Protection Benefits  
INSURING AGREEMENT**

1. If the Schedule or Declarations indicates that Added Personal Injury Protection Benefits apply, we will pay added personal injury protection benefits instead of basic personal injury protection benefits to or for the "named insured" or any "family member" who sustains "bodily injury". The "bodily injury" must be caused by an accident involving the use of a "motor vehicle" as a motor vehicle.
2. Subject to the limits shown in the Schedule or Declarations, added personal injury protection benefits consists of the following:
  - a. Medical expenses.
  - b. Work loss.
  - c. Funeral expenses.
  - d. Survivors' loss.

**EXCLUSIONS**

- A.** We do not provide Personal Injury Protection Coverage for "bodily injury" sustained by any "insured":
1. While "occupying" a "motor vehicle", other than "your covered auto", which is:
    - a. Owned by; or
    - b. Furnished for the regular use of; the "named insured" or any "family member".

**2. While:**

- a. Operating "your covered auto" without the express or implied consent of an "insured"; or
  - b. Not in lawful possession of "your covered auto".
- 3.** If such "insured's" conduct contributed to that "insured's" injury under either of the following circumstances:
- a. Intentionally causing injury to that "insured"; or
  - b. While committing a felony.
- 4.** Arising out of the use of any "motor vehicle" while located for use as a residence or premises.
- B.** We do not provide Personal Injury Protection Coverage for "bodily injury":
1. Due to:
    - a. War (declared or undeclared);
    - b. Civil war;
    - c. Insurrection;
    - d. Rebellion or revolution; orany act or condition incident to any of the above.
  2. Resulting from the:
    - a. Radioactive;
    - b. Toxic;
    - c. Explosive; or
    - d. Other hazardous; properties of nuclear material.
- C.** Under Basic or Added Personal Injury Protection Coverage, we do not provide for the loss of income coverage included in the work loss benefit for the "named insured" and spouse if REJECTION OF LOSS OF INCOME is indicated in the Schedule or Declarations.

**LIMIT OF LIABILITY**

- A.** The limits of liability shown in the Schedule or Declarations for the personal injury protection benefits that apply are the most we will pay for "bodily injury" sustained by any one "insured" injured in any one "motor vehicle" accident, regardless of the number of:
1. "Insureds";
  2. Policies or bonds applicable;
  3. Claims made; or
  4. "Your covered autos".

- B. Any amount otherwise payable under this endorsement shall be reduced by any amount paid, payable or required to be provided:

1. Under any workers' compensation law or similar law; or
2. By the United States or any of its agencies because an "insured" is on active duty in the military services.

#### OTHER INSURANCE

- A. No one shall be entitled to receive duplicate payments for the same elements of loss under this or any other insurance.
- B. Any coverage we provide shall be primary only for "bodily injury" sustained by an "insured" in an accident arising out of the use or operation of "your covered auto".
- C. If the vehicle is a rental private passenger motor vehicle, the following priorities of recovery apply:

<b>FIRST PRIORITY</b>	Any source of recovery purchased by you or any "family member" from the owner of the rental private passenger motor vehicle.
<b>SECOND PRIORITY</b>	Any policy affording Personal Injury Protection Coverage to the "insured" as a named insured or "family member".

- D. If an "insured" is entitled to similar benefits under more than one policy, the maximum amount payable under all of the policies shall not exceed the amount payable under the policy with the highest limit of liability. We will pay only our share. Our share is the proportion that our limit of liability bears to the total of all applicable limits of policies providing coverage on the same basis.
- E. Any personal injury protection benefits paid or payable under this or any other auto insurance policy shall be primary over any coverage provided under Part B of this policy.

### III. Part E - Duties After An Accident Or Loss

Part E is amended as follows:

- A. Duties A., B.3. and B.5. are replaced by the following:

- A. A person seeking Personal Injury Protection Coverage must, in the event of an accident, give us or our authorized agent, prompt written notice of the accident. The notice should identify the "insured" and contain reasonably obtainable information with respect to how, when and where the accident happened.
- B. An "insured":
  3. Must submit, as often as we reasonably require, to physical and mental exams by physicians we select. We will pay for these exams.
  5. Or someone on his behalf must promptly give us written proof of claim, under oath if required. Such proof of claim shall include:
    - a. Full details of the nature and extent of the "bodily injury";
    - b. Treatment and rehabilitation received and contemplated; and
    - c. Any other information which may assist us in determining the amount due and payable.

- B. The following duty is added:

If:

1. An "insured"; or
2. That "insured's" legal representative or survivors;

take legal action to recover damages for "bodily injury" against another party, that person must promptly forward to us a copy of the summons and complaint or other process served in connection with such action.

### IV. Part F - General Provisions

Part F is amended as follows:

- A. Paragraph B. of the Policy Period And Territory Provision is replaced by the following:

#### POLICY PERIOD AND TERRITORY

- B. The policy territory is:

1. The United States of America, its territories or possessions; or
2. Canada.

**B. The Our Right To Recover Payment Provision is replaced by the following:**

**OUR RIGHT TO RECOVER PAYMENT**

**A.** If we make a payment under this coverage and the person to or for whom payment was made has a right to recover damages from another we shall be subrogated to that right. We shall be entitled to a recovery only after the person has been fully compensated for damages. That person shall:

1. Execute and deliver instruments and papers to us and do whatever else is necessary to secure these rights; and
2. Do nothing after loss to prejudice them.

**B.** If we make a payment under this coverage and the person to or for whom payment is made recovers damages from another we shall:

1. Be entitled to the proceeds of the recovery; and
2. Have a lien against such recovery; to the extent of our payment. Notice of the lien may be given to:
  1. The party from which damages are recovered;
  2. That party's agent or insurer; or
  3. A court having jurisdiction.

We shall be entitled to a recovery only after the person has been fully compensated for damages.

That person shall:

1. Hold in trust for us all rights of recovery which that person has against another party;
2. Do whatever is necessary to secure these rights;

3. Do nothing after loss to prejudice them; and

4. Execute and deliver to us instruments and papers necessary to secure that person's and our rights and obligations.

**C.** The following condition is added:

**PREMIUM RECOMPUTATION**

The premium for this policy has been established in reliance upon the limitations on the right to recover damages contained in the Utah Insurance Code. If a court of competent jurisdiction:

1. Declares; or
2. Enters a judgment, the effect of which is to render;

the provisions of the Insurance Code invalid or unenforceable, in whole or in part, we shall have the right to:

1. Recompute the policy premium; and
2. At our option, void or amend the provisions of this endorsement.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.



## **UTAH**

### **IMPORTANT INFORMATION TO POLICYHOLDERS**

Pursuant to the laws of Utah section 31A-21-201 you are hereby informed that Liberty Mutual Fire Insurance Company is the exact name of your insurer which is domiciled in the state of Massachusetts.

## **Notice of Membership in Liberty Mutual Holding Company Inc.**

While this policy is in effect, the named insured first named in the Declarations is a member of Liberty Mutual Holding Company Inc. and is entitled to vote either in person or by proxy at any and all meetings of the members of said company. The Annual Meeting of Liberty Mutual Holding Company Inc. is in Boston, Massachusetts, on the second Wednesday in April each year at ten o'clock in the morning.

The named insured first named in the Declarations shall participate in the distribution of any dividends declared by us for this Policy. The amount of such Named Insured's participation is determined by the decision of our Board of Directors in compliance with any laws that apply.

Any provisions in the policy relating to:

1. Membership in Liberty Mutual Insurance Company or Liberty Mutual Fire Insurance Company; or
2. Entitlement to dividends as a member of Liberty Mutual Insurance Company or Liberty Mutual Fire Insurance Company

are deleted and replaced by the preceding paragraphs.



**Liberty Mutual Fire Insurance Company  
Notice of Membership in Liberty Mutual Holding Company Inc. and  
Notice of Annual Meeting**

Your policy includes a statement regarding membership rights in Liberty Mutual Holding Company Inc. Liberty Mutual Fire Insurance Company is a Massachusetts stock insurance company subsidiary of Liberty Mutual Holding Company Inc., a Massachusetts mutual holding company. Insurance is provided by Liberty Mutual Fire Insurance Company. The named insured first named in the declarations is a member of Liberty Mutual Holding Company Inc.

As a member of Liberty Mutual Holding Company Inc., the named insured first named is entitled, among other things, to vote either in person or by proxy at the annual meeting or special meetings of said company. The Annual Meeting of Liberty Mutual Holding Company Inc. is at its offices located at 175 Berkeley Street, Boston, Massachusetts, on the second Wednesday in April each year at ten o'clock in the morning.

Members of Liberty Mutual Holding Company Inc. may request a copy of the company's annual financial statements, which are posted on Liberty Mutual's website at [www.libertymutual.com](http://www.libertymutual.com), by writing to Liberty Mutual Holding Company Inc., 175 Berkeley Street, Boston, Massachusetts, 02117, Attention: Corporate Secretary.

**AMENDED COMPLAINT**

Dated: March 12, 2004, filed March 17, 2004  
Record on Appeal, Pages 18 through 14

ORIGINAL  
7004 MAR 13 AM 11:57

Mitchel T. Rice, No. 6022  
Joseph E. Minnock, No. 6281  
MORGAN, MINNOCK, RICE, & JAMES, L.C.  
Kearns Building, Eighth Floor  
136 South Main Street  
Salt Lake City, Utah 84101  
Telephone (801) 531-7888  
Fax number (801) 531-9732

Attorneys for Plaintiff

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IN THE FOURTH JUDICIAL DISTRICT COURT  
IN AND FOR UTAH COUNTY, STATE OF UTAH

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LIBERTY MUTUAL INSURANCE  
COMPANY,

Plaintiff,

vs.

BURDENE SHORES and  
UNIOR SHORES,

Defendants

**AMENDED COMPLAINT  
FOR DECLARATORY RELIEF**

Civil No. 040400497  
Honorable Lynn W. Davis

---

PLAINTIFF LIBERTY MUTUAL INSURANCE COMPANY, through its Counsel of record, hereby seeks declaratory relief pursuant to UTAH CODE ANN. § 78-33-1 to 13, and alleges as follows.

**PARTIES**

1. Liberty Mutual Insurance Company is an insurance company licensed to transact business in the State of Utah.
2. Defendant Burdene Shores is an individual residing in the City of Lindon, Utah County, State of Utah.

3. Defendant Unior Shores is an individual residing in the City of Lindon, Utah County, State of Utah.

#### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this matter pursuant to Utah Code Ann. § 78-33-1
5. Venue is proper pursuant to Utah Code Ann. § 78-13-7.

#### **GENERAL FACTUAL ALLEGATIONS**

6. On September 9, 2003, Defendant Burdene Shores was involved in an automobile accident in which she was a passenger and her husband, Defendant Unior Shores, was driving.
7. The automobile was insured under a personal automobile policy issued by Liberty Mutual, No. A02-268-209010-103 7, with coverage from January 12, 2003, to January 12, 2004. Defendants are insureds under the policy.
8. The Liberty policy included the following provisions located in Endorsement PP 01 93 04 02:

1. Part A - Liability Coverage

Part A is amended as follows.

- B. The following exclusion is added:

We do not provide Liability Coverage for any "insured" for "bodily injury" to you to the extent that the limits of liability for this coverage exceed the applicable minimum limits for liability specified by UTAH CODE ANN. Section 31A-22-304. The applicable minimum limits are:

1. \$65,000 for each accident, if the limit of liability for this coverage is a single limit that applies for each accident; or

2. \$25,000 for each person/\$50,000 for each accident, if the limit of liability for this coverage is indicated as a split limit.
9. At the top of the Endorsement is written, "THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY." The title also provides that it is an "AMENDMENT OF POLICY PROVISIONS - UTAH."
10. The policy provision limiting insurance to "\$25,000 for each person" is equal in amount to the Utah Statutory minimum pursuant to Utah Code Ann. § 31A-22-304.
11. Defendant Burdene Shores, through her Counsel, has demanded that Plaintiff pay \$100,000.00 under the policy as a result of the accident and her injuries.

#### **CLAIM FOR RELIEF**

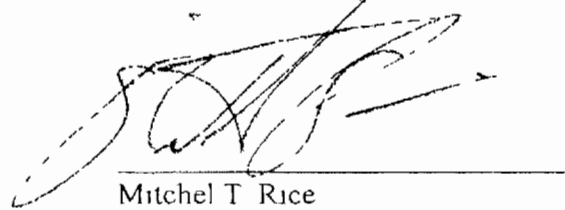
12. Plaintiff incorporates the foregoing paragraphs as if set forth herein.
13. Per the terms of the Liberty Mutual policy, Defendant Unior Shores is not entitled to insurance coverage beyond the statutory minimum of \$25,000.00 as expressed in section I.B.2. of the applicable Endorsement and Defendant Burdene Shores is not entitled to payment of more than this amount.

#### **PRAYER FOR RELIEF**

Wherefore, Plaintiff Liberty Mutual Insurance Company prays that this Court declare that it is not required to pay any more than the statutory minimum under Utah Code Ann. § 31A-22-304, and pursuant to Section I.B.2. of the Endorsement in Liberty Mutual's policy of insurance. Liberty Mutual filed previously an Ex Parte Motion to Deposit \$25,000.00 in the Fourth Judicial District Court representing the coverage that Defendants are entitled to under the personal automobile policy of insurance.

DATED this 12 day of March, 2004

MORGAN, MINNOCK, RICE, & JAMES L C

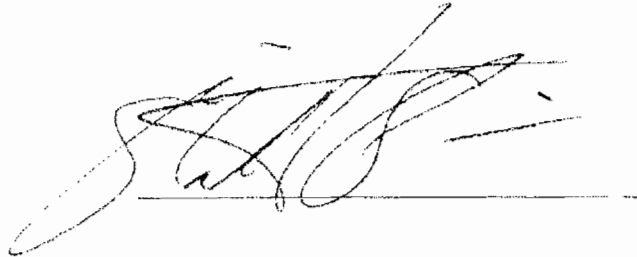
A handwritten signature in black ink, appearing to read "MTR", is written over a horizontal line.

Mitchel T. Rice  
Joseph E. Minnock  
Attorneys for Plaintiff

CERTIFICATE OF MAILING

I hereby certify that on this 12 day of March, 2004, I caused a true and correct copy of the foregoing **AMENDED COMPLAINT FOR DECLARATORY RELIEF**, to be mailed via first-class mail, postage prepaid, to the following:

C. Peter Whitmer  
P. O. Box 434  
Pleasant Grove UT. 84062

A handwritten signature in black ink, appearing to read "C. Peter Whitmer", is written over a horizontal line.

## **ANSWER AND COUNTERCLAIM**

Excluding Exhibit "A" – the Liberty Mutual Insurance Policy

Dated and Filed: March 25, 2004

Record on Appeal, Pages 80 through 67



C Peter Whitmer, Bar #7344  
P.O. Box 434  
Pleasant Grove, Utah 84062  
Phone 801-809-6319  
FAX 801-796-8726  
Attorney for Burdene Shores

FILED  
2004 MAR 25 PM 2:34

IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY

PROVO DEPARTMENT, STATE OF UTAH

Liberty Mutual Insurance Company,	
Plaintiff,	<b>ANSWER and COUNTERCLAIM</b>
vs	
Burdene Shores and Unior Shores,	Civil No 040400497
Defendants	Judge Lynn W Davis

Burdene Shores, by and through her attorney, undersigned, hereby answers and counterclaims as follows

**A N S W E R**

For her answer, Burdene Shores admits, denies and alleges as follows.

- 1 Admits the allegations of paragraphs 2, 3, 4, 5, 6 and 7 of the Amended Complaint
- 2 Denies the allegations of paragraph 1 Burdene Shores affirmatively alleges that Liberty Mutual Fire Insurance Company is an insurance company licensed to transact business in the state of Utah, and, that Liberty Mutual Fire Insurance Company should probably be the plaintiff in this

action because Liberty Mutual Fire Insurance Company (hereinafter Liberty Mutual) more accurately corresponds with the allegations of Liberty Mutual Insurance Company's complaint. Hereinafter no distinction will be made between the two entities, presuming that the plaintiff will move to amend the complaint to reflect the true name of the plaintiff.

3. In answering the allegations of paragraphs 8 and 9 of the amended complaint, Burdene Shores admits that the wording specified, or equivalent wording, is present in the policy of insurance on page 22 of a 46 page policy delivered to Union Shores and Burdene Shores; however, Burdene Shores denies, as more fully set forth in the counterclaim, that the provision specified in paragraph 8 of the amended complaint is valid, effective or enforceable. See copy of the insurance policy attached hereto as Exhibit "A"
4. Specifically denies the allegations of paragraphs 10, 11 and 13 of the amended complaint
5. Denies each and every other allegation not specifically admitted herein
6. Affirmatively alleges that Liberty Mutual has failed to state a claim upon which relief can be granted.
7. Affirmatively alleges that Liberty Mutual has paid into the court \$25,000 which is due to Burdene Shores in an attempt to evade sanctions for failure to comply with Utah law

WHEREFORE, having fully answered Liberty Mutual's amended complaint, Burdene Shores requests that the same be dismissed with prejudice, and, that she recover her costs incurred herein

## C O U N T E R C L A I M

For her counterclaim against Liberty Mutual, Burdene Shores complains and alleges as follows:

### COUNT ONE – DECLARATORY JUDGMENT

#### General Allegations

1. Liberty Mutual Fire Insurance Company (Liberty Mutual) is an insurance company authorized to write automobile insurance in the State of Utah
2. Burdene Shores is an individual and a resident of Utah County, State of Utah.
3. Unior Shores is an individual and a resident of Utah County, State of Utah.
4. This court has proper jurisdiction of this counterclaim pursuant to Utah Code §78-33-1 and other statutes and rules.
5. Venue is proper for this counterclaim
6. Burdene Shores, together with her husband Unior Shores, were “Insureds” of Liberty Mutual under an automobile insurance policy titled as a “Libertyguard Auto Policy” at all times relevant to this cause of action.
7. That the said Libertyguard Auto Policy was effective for the policy period from January 12, 2003 to January 12, 2004
8. That the said Libertyguard Auto Policy was issued as policy number “A02-268-209010-103 7”
9. That the said Libertyguard Auto Policy was issued and physically delivered to Unior Shores and Burdene Shores (the Shores) on or after January 16, 2003
10. That the said Libertyguard Auto Policy is a contract of adhesion.
11. That the terms of the said Libertyguard Auto Policy as interpreted by Liberty Mutual do not

meet the reasonable expectations of the Shores based on what was requested and what they received.

12. That the terms of the said Libertyguard Auto Policy as interpreted by Liberty Mutual do not provide the coverage which the Shores reasonably believed they had paid for.
13. That the Shores had no input as to the drafting of or the terms of the said Libertyguard Auto Policy at or before its issuance.
14. That prior to the issuance of the said Libertyguard Auto Policy there was no meaningful disclosure of the terms of the policy, except for terms related to policy limits as stated on the policy declarations pages and premiums
15. That Burdene Shores was injured in a motor vehicle accident on September 9, 2003 (the accident) in which her husband Unior Shores was driving and she was a passenger in a motor vehicle insured by Liberty Mutual under the said Libertyguard Auto Policy
16. That in the accident Unior Shores was primarily responsible for the injuries to Burdene Shores
17. That the injuries sustained in the accident by Burdene Shores are of a severe and permanently debilitating nature
18. That Burdene Shores has incurred medical and medical related expenses substantially in excess of \$25,000 as a result of the accident

#### Other Allegations

19. That the purported limitation on liability coverage (as alleged in paragraph 8 of the plaintiff's amended complaint) and as located on page 22 of the policy, was never disclosed to the Shores prior to policy issuance, and, was never meaningfully disclosed in any manner until after a claim was made by Burdene Shores

20. Upon information and belief it is alleged that the purported limitation on coverage located on page 22 of the policy was hidden deeply within the policy with the purpose and intent to hide the provision from the Shores and other similar insureds and to prevent their discovery of this provision in an attempt to unlawfully deny them policy coverage which they otherwise reasonably believed they had purchased
21. Upon information and belief it is alleged that the purported limitation on coverage located on page 22 of the policy was not disclosed on the declarations pages with the purpose and intent to hide the provision from the Shores and other similar insureds in an attempt to unlawfully deny them policy coverage which they otherwise reasonably believed they had purchased
22. That the purported limitation on coverage located on page 22 of the policy does not insure against a differing risk than the general liability limit included on a declarations page on page 2 of the policy declarations. That general liability limit on the declarations page is \$100,000 per person and \$300,000 per accident
23. That the purported limitation on coverage located on page 22 of the policy is not clearly stated as a policy limit of liability
24. That the endorsement containing the purported limitation on coverage located on page 22 of the policy is identified as "Amendment of Policy Provisions -- Utah", and, not as an amendment or change of Policy Declarations
25. That the purported limitation on coverage located on page 22 of the policy is ambiguous when viewed in conjunction with the declared liability limit included on a declarations page on page 2 of the policy declarations.
26. Upon information and belief it is alleged that the ambiguous nature of the purported limitation on

coverage located on page 22 of the policy was made ambiguous with the purpose and intent to hide the provision from the Shores and other similar insureds and to prevent their discovery of this provision in an attempt to unlawfully deny them policy coverage which they otherwise reasonably believed they had purchased.

- 27 Among other reasons, this belief regarding Liberty Mutual's intent is based on the fact that other Utah specific provisions are prominently displayed on both the declarations page and in an appropriate endorsement, including provisions regarding Utah underinsured motorist coverage, Utah personal injury protection (PIP) and Utah uninsured motorist (property damage) coverage
- 28 The purported limitation on coverage located on page 22 of the policy is not in conformance with Utah Code §31A-21-308
- 29 The purported limitation on coverage located on page 22 of the policy was drafted by Liberty Mutual and pursuant to Utah law must be strictly construed against Liberty Mutual
- 30 The purported limitation on coverage located on page 22 of the policy was not used as a basis for providing lower rates in the issuance of the policy to the Shores in this case
- 31 The purported limitation on coverage located on page 22 of the policy, is a form of "household exclusion " That the household exclusion was specifically rejected as being valid in an automobile liability policy when Utah Code §31A-22-303 was adopted by the Utah legislature
- 32 That the purported limitation on coverage located on page 22 of the policy is in violation of the public policy of the State of Utah, and is void as against that public policy
- 33 That Burdene Shores will continue to incur medical and medical related expenses attributable to the accident for the balance of her life

34 That Liberty Mutual has offered to pay Burdene Shores the statutorily mandated minimum amount of \$25,000 in exchange for a full and total release, but has failed and refused to pay the policy limits of \$100,000 which were specified in the declarations to the Libertyguard Auto Policy

WHEREFORE, Burdene Shores demands judgment against Liberty Mutual on this Count One of the Counterclaim as follows.

- I For a declaration that the provision purported to limit liability coverage provided to Union Shores for injuries to Burdene Shores under the Libertyguard Auto Policy to the statutory minimum required in Utah is not valid because it does not comply with Utah law
  - a) because it is not a separate risk insured against,
  - b) because it was not used as a basis for providing lower rates for the risks insured against,
  - c) because it is not clearly and understandably stated,
  - d) because it conflicts with and does not by its terms supercede the policy declarations.
  - e) because it is ambiguous, and,
  - f) because it is a contract of adhesion which does not meet the reasonable expectations of the insureds (the Shores), nor provide the coverage which they paid for
2. For a declaration that the purported provision limiting liability coverage provided to

Unior Shores for injuries to Burdene Shores is void as against the public policy of the State of Utah as expressed by the legislature in adopting Utah Code §31A-22-303.

3. For a declaration that Liberty Mutual is liable for all damages which Unior Shores may ultimately be found liable for to Burdene Shores
4. For the costs and expenses of suit incurred herein.
5. For attorney's fees as may be allowed by law
6. For such other and further relief as is proper in the premises.



## COUNT TWO – BAD FAITH REFUSAL TO SETTLE

1. The allegations of paragraphs 1 through 18 of Count One of the Counterclaim are realleged as though fully set forth in this Count Two of this Counterclaim.
2. Burdene Shores is in privity of contract with Liberty Mutual under the said Libertyguard Auto Policy.
3. Liberty Mutual is obligated and required to deal fairly and honestly with Burdene Shores in settlement of claims made by Burdene Shores under the said Libertyguard Auto Policy.
4. Liberty Mutual breached its duty of fair dealing by failing or refusing to settle a portion of the liability claim about which there was no dispute as to Liberty Mutual's liability.
5. Utah Code §31A-26-303 declares that it is an unfair claims settlement practice to fail to settle a claim promptly under one portion of the insurance policy coverage, where liability and the amount of loss are reasonably clear, in order to influence settlements under other portions of the insurance policy coverage.
6. The above statute does not provide a separate cause of action; however, it does set the public policy of the State of Utah for settlement of claims and some activities which constitute unfair claims settlement practices.
7. Liberty Mutual has failed and refused to settle and pay the \$25,000 amount which it has not disputed is due to Burdene Shores under liability coverage unless and until she foregoes all other claims against Liberty Mutual and signs a full release of all claims occurring because of the accident.
8. That demand for payment of the \$25,000 on behalf of Burdene Shores was made November 24, 2003

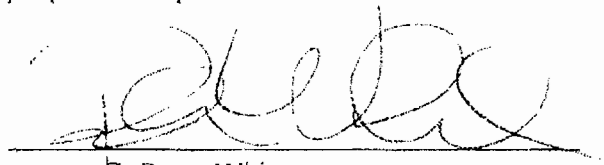
- 9 Utah Administrative Rule R590-190-9, titled "Unfair Methods, Deceptive Acts and Practices Defined" in further clarification of U.C. §31A-26-303 in subsection (8), specifies the following to be misleading, deceptive, unfairly discriminatory or overreaching in the settlement of claims
- the failure to settle (and pay) claims by persons in privity of contract with an insurer within 30 days of the claim being made when liability is reasonably clear under one coverage in order to influence settlements under other portions of the insurance policy coverage
- 10 It is the public policy of the State of Utah as set forth in the above statute and rule that claims about which liability is reasonably clear shall be paid within 30 days of the claim being made
- 11 Liberty Mutual was advised on more than one occasion of the above statute and rule by the attorney for Burdene Shores
- 12 Liberty Mutual acting in knowing violation of the public policy of the State of Utah has refused to pay the \$25,000 which it is reasonably clear is due to Burdene Shores unless and until Burdene Shores completely releases Liberty Mutual of all liability
- 13 Burdene Shores is entitled to interest at the legal rate of 10% per annum (as specified in U.C. §15-1-1) from and after the \$25,000 above specified, should have been paid which was no later than December 24, 2003, until the \$25,000 is in fact paid to Burdene Shores
- 14 In furtherance of its violation of Utah public policy regarding the timely payment of claims, counsel for Liberty Mutual, instead of paying the \$25,000 to Burdene Shores, has apparently paid the \$25,000 into this court. This conduct is a further violation of the public policy of the State of Utah as specified in the above statute and rule
- 15 Liberty Mutual is liable for the conduct of its counsel complained of in the preceding paragraph

16. There is not dispute as to whom Liberty Mutual is legally obligated to pay the \$25,000.  
Therefore, interpleader is not appropriate and provides no defense justifying Liberty Mutual in paying the \$25,000 into the court.
17. That Burdene Shores has been and continues to be harassed by medical providers and others demanding payment for medical services which should have been paid by the \$25,000 which Liberty Mutual has failed and refuses to pay.
18. That Burdene Shores has suffered and continues to suffer mental distress and anguish because of Liberty Mutual's failure and refusal to pay the \$25,000 claim for which Liberty Mutual is liable.
19. That Burdene Shores has suffered damages because of Liberty Mutual's refusal to pay the \$25,000 which should have been paid
20. The failure and refusal by Liberty Mutual to pay the \$25,000 to Burdene Shores is not a fairly debatable issue within the meaning of Utah law
21. That Liberty Mutual's conduct in refusing to pay the \$25,000 to Burdene Shores is the result of willful and malicious conduct, or conduct that manifests a knowing and reckless indifference toward, and a disregard of, the rights of Burdene Shores to receive timely payment of the \$25,000 which she is entitled to receive
22. That Liberty Mutual's conduct in refusing to pay the \$25,000 to Burdene Shores was in knowing, purposeful and intentional violation of Utah public policy regarding the timely payment of claims to Burdene Shores, and subjects Liberty Mutual to liability for punitive damages.
23. Upon information and belief, it is alleged that Liberty Mutual has made a practice of refusing to settle claims of persons with whom it is in privity of contract, unless and until a full release has

been given for all liability for which Liberty Mutual may be liable even though such persons may have other claims against Liberty Mutual.

WHEREFORE, Burdene Shores demands judgment against Liberty Mutual on this Count Two of the Counterclaim as follows:

1. For \$25,000 which is due to Burdene Shores under the liability coverage of the Libertyguard Auto Policy for the negligence of Unior Shores.
2. For interest at the legal rate of 10% per annum on the \$25,000 due from Liberty Mutual from December 24, 2003 until paid.
3. That the court order that the \$25,000 paid into the court by Liberty Mutual be paid forthwith to Burdene Shores to satisfy the \$25,000 obligation which is due from Liberty Mutual.
4. That Burdene Shores recover from Liberty Mutual damages to compensate her for harassment, mental distress and anguish caused by the conduct of Liberty Mutual in an amount determined by the trier of fact, but not less than \$10,000.
5. That Burdene Shores recover from Liberty Mutual punitive damages as determined by the trier of fact, but not less than Five Million Dollars (\$5,000,000).
6. For the costs of suit expended herein
7. For such further and other relief as is proper in the premises.

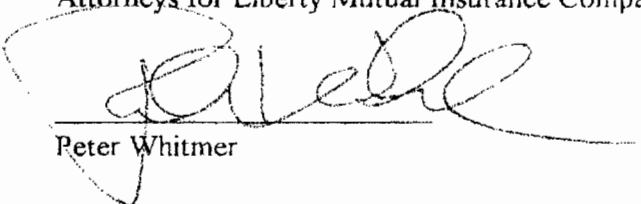


C. Peter Whitmer  
Attorney for Burdene Shores

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing "Answer and Counterclaim " was mailed by first class mail, postage prepaid, on March 25, 2004 to the following.

Mitchel T. Rice  
Joseph E. Minnock  
Morgan, Minnock, Rice & James, L.C.  
136 S Main St, 8th Flr  
Salt Lake City, Ut, 84111  
Attorneys for Liberty Mutual Insurance Company



Peter Whitmer

Exhibit “A”

**AFFIDAVIT OF BURDENE SHORES IN OPPOSITION TO  
LIBERTY MUTUAL'S MOTION FOR SUMMARY JUDGMENT**

Including Exhibit "A" – Prior Met Life Auto Policy Replaced by Liberty Mutual Policy

Dated: December 2, 2004

Record on Appeal, Pages 368 through 309

C. Peter Whitmer, Bar #7344  
P.O. Box 434  
Pleasant Grove, Utah 84062  
Phone: 801-809-6319  
FAX: 801-796-8726  
Attorney for Burdene Shores

IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY

PROVO DEPARTMENT, STATE OF UTAH

Liberty Mutual Insurance Company,

Plaintiff,

vs.

Burdene Shores and Unior Shores,

Defendants.

**AFFIDAVIT OF BURDENE SHORES  
PRESENTED IN OPPOSITION TO  
LIBERTY MUTUAL'S MOTION FOR  
SUMMARY JUDGMENT**

Civil No. 040400497

Judge. Derek Pullan

State of Utah            )  
                                  ) ss.  
County of Utah         )

Burdene Shores, being first duly sworn, upon her oath deposes and says:

1.     She is a defendant in the above titled action prosecuted by Liberty Mutual Insurance Company
2.     She makes this affidavit on the basis of her own personal knowledge, except for those matters stated herein upon information and belief, and as to those, she believes them to be true.
3.     She was born on June 17, 1929, making her 75 years old at the time of making this affidavit.



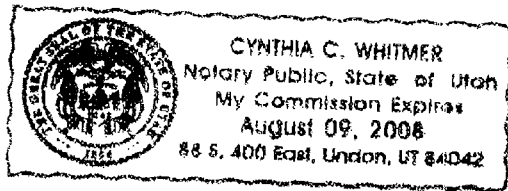
4. She is married to Unior Shores.
5. Unior Shores was born on November 1, 1921, making him 82 years old at the time of making this affidavit.
6. She and Unior live in Lindon, Utah.
7. Unior Shores is retired from the Army.
8. In late 2002 she and her husband received direct mail solicitations from Liberty Mutual (the plaintiff in this case) advertising the availability of preferred rates to retired military personnel. After receiving several of these solicitations and seeing other advertisements from Liberty Mutual for automobile insurance they invited a local agent of Liberty Mutual to make a presentation to them.
9. In late 2002 or early January of 2003, an insurance agent from Liberty Mutual, believed to have been Ryan P. Farnsworth (hereinafter Farnsworth), came to their home and made a sales presentation.
10. During the sales presentation, the Met Life policy under which the Shores then had automobile insurance coverage was given to Farnsworth. A copy of the Met Life policy is attached to this affidavit as Exhibit "A"
11. Farnsworth gave the Shores a price for which he could provide insurance coverage to them based on the fact that Unior Shores was retired military
12. The Shores advised Farnsworth that they would purchase insurance coverage from Liberty Mutual if he could provide the same coverage as they had with Met Life.
13. Farnsworth took the Met Life policy to review its provisions.
14. Sometime later, Farnsworth contacted the Shores and agreed that he could provide the same coverage as the Met Life policy for the price he had previously given to

them.

15. An application for coverage was signed on January 10, 2003.
16. There was agreement between the Shores and Farnsworth that they would purchase the Liberty Mutual insurance policy having the same coverage as their Met Life policy.
17. Other than an agreement that Liberty Mutual would provide the same coverage as Met Life including specified policy limits, there was never any discussion as to other specific policy terms.
18. There was never any representation to the Shores prior to purchase that there was a reduced limit of liability for coverage for liability claims of insureds under the Liberty Mutual insurance policy.
19. Neither was there any discussion, disclosure or representation to the Shores that there was a reduced premium because of a differing policy limit for liability claims of insureds under the Liberty Mutual insurance policy.
20. The first time Burdene Shores became aware that there was reduced coverage under the Liberty Mutual insurance policy, was in late September or early October of 2003 after the claim underlying this case was made to Liberty Mutual.
21. The Shores paid the premium for the Liberty Mutual insurance to Farnsworth on January 10, 2003. Farnsworth bound the insurance coverage effective January 12, 2003 ; and, the Shores Met Life policy was canceled effective January 12, 2003 .

  
Burdene Shores

Subscribed and sworn to before me this 24<sup>th</sup> day of October, 2004 by Burdene Shores.



Cynthia C. Whitmer  
Notary Public

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Affidavit of Burdene Shores Presented in Opposition to Liberty Mutual's Motion For Summary Judgment" was mailed, postage prepaid, on October 4, 2004 to the following:

Mitchel T. Rice  
Joseph E. Minnock  
Morgan, Minnock, Rice & James, L.C.  
136 S Main St, 8th Flr  
Salt Lake City, Utah 84111  
Attorneys for Liberty Mutual Insurance Company

Ronald W Ady  
10 W 100 South, Suite 425  
Salt Lake City, Utah 84101  
Attorney for Unior Shores

  
C. Peter Whitmer

# Exhibit “A”

Met Life Insurance Policy

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**INFORMATION ABOUT YOUR  
PERSONAL FINANCIAL MANAGEMENT (CREDIT)  
AND THE COST OF YOUR INSURANCE**

At MetLife Auto & Home, we have conducted significant research into the relationship between an individual's use of credit and the likelihood of filing insurance claims. Our research has proven that certain credit characteristics are strong predictors of a customer's likelihood of submitting a claim. Based on this research, we use customer credit reports as an integral part of our insurance underwriting (determining which applicants we insure) and rating (calculating a customer's premium) process. We do this using a method we call "Personal Financial Management" or "PFM".

PFM groups credit characteristics together into levels that we call "PFM levels". Using the greatest amount of information, including PFM, enables us to offer all of our customers a fairer premium. Because PFM is a tool that helps predict the likelihood of submitting future claims, we can even offer policies to some applicants who otherwise would not be eligible for insurance with us. (PFM is only one of the many factors that are considered in setting a customer's premium rate and, therefore, other discounts and surcharges will impact the final premium rate.) Because of the predictive value of credit, a customer's lack of credit history may affect our consideration of an applicant, unless restricted by law.

At MetLife Auto & Home, we believe it is important to notify our customers when we are unable to offer them our lowest premium due to one or more items that appear on their credit report. That is why we are advising you of the most significant credit characteristics found on your credit report that influenced your PFM level. They are:

We have been unable to successfully obtain a credit history. Please contact us to ensure the proper rating of your policy.

We have been unable to successfully obtain a credit history. Please contact us to ensure the proper rating of your policy.

No accounts that are currently past due.

All accounts are considered paid as agreed or in "good standing".

Since some Consumer Reports may contain errors, we encourage you to check your credit report to ensure that it is 100% accurate. We obtained your credit report from ChoicePoint – a Consumer Reporting Agency. Although ChoicePoint does not make the credit decisions or explain the reasons for them, they will provide you with a copy of your credit report.

If you have any questions as to the accuracy or completeness of any information on your credit report, you have the right to dispute it directly by contacting:

CHOICEPOINT CONSUMER CREDIT  
BOX 105108  
ATLANTA, GEORGIA 30348-5108  
1-800-456-6004  
[www.consumerdisclosure.com](http://www.consumerdisclosure.com)

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in general, your credit report is ordered when you apply for insurance with us and is retained in your permanent policy records. If you feel there has been a significant change in your credit history, at your request, we can reorder your PFM once during your policy term. To take advantage of this opportunity, simply send a request to:

METLIFE AUTO & HOME  
ATTENTION: PFM UNIT  
500 ECONOMY COURT  
FREEPORT, ILLINOIS 61032

A reply will be mailed to you confirming that the report has been ordered and whether or not you qualified for a premium reduction.

If you have any additional questions, please call us at 1-800-342-7417, Monday through Friday, 8:00 am to 6:00 pm Eastern Time. Please note that MetLife Auto & Home representatives do not have access to your credit report (which is kept in the strictest confidence), but rather only possess the PFM level.

When sending us correspondence, be sure to include your name and policy number on all documents to ensure that your file is updated.

**Thank you for insuring with us.**

MetLife Auto & Home conducts its business in compliance with all federal and state laws, so our use of credit information may vary somewhat by state.

MetLife® Auto & Home is a brand of Metropolitan Property and Casualty Insurance Company and its Affiliates, Warwick, RI

## **IMPORTANT NOTICE**

### **IT'S TIME TO REVIEW YOUR AUTO INSURANCE COVERAGE**

Enclosed in your renewal package is your Declarations Page listing the coverages that you have on your auto policy. We're sending you this note to recommend that it may be a time for you to review your coverage selections to see if your insurance needs have changed.

Listed below are some optional coverages\* that are not part of the basic auto policy. You may be interested in purchasing them if you have not already.

#### **SUBSTITUTE TRANSPORTATION**

If your car is stolen, your basic automobile policy pays you to rent a car up to the amount shown on the Declarations Page. But, if your vehicle is involved in a collision or other loss (except "theft" as described above) your basic auto policy doesn't come with rental coverage. However, you can purchase additional coverage toward the cost of a rental car while your car is being repaired. This coverage is called Substitute Transportation.

#### **SAFETY GLASS DEDUCTIBLE BUYBACK**

For a small charge, you can buy back your deductible under physical damage for the repair or replacement of damaged safety glass. This means you would not have to pay the deductible on a safety glass loss. Safety glass is glass or other material used in the windshield and windows of your vehicle.

#### **CUSTOM SOUND EQUIPMENT**

Have you installed sound equipment after you purchased your car? If so, you should consider this coverage. Custom Sound equipment covers items such as radios and televisions, tape decks and compact disc players, speakers and amplifiers, telephones, and personal computers. The equipment must be permanently installed and operating solely from the vehicle's electrical system.

If you would like to add any of these coverages or wish to review your options, please call your representative, Independent Agent or our Customer Service Department at the number indicated on the Customer Service and Claim Directory.

**Thank you for insuring with us.**

\*subject to state availability and certain restrictions

**NOTE:** In the event of any conflict between the policy, including its endorsements, and this notice, the provisions of the policy and endorsements shall prevail.



METROPOLITAN PROPERTY AND CASUALTY INSURANCE COMPANY  
METROPOLITAN CASUALTY INSURANCE COMPANY  
METROPOLITAN DIRECT PROPERTY AND CASUALTY INSURANCE COMPANY  
METROPOLITAN GENERAL INSURANCE COMPANY  
METROPOLITAN GROUP PROPERTY AND CASUALTY INSURANCE COMPANY  
METROPOLITAN LLOYDS INSURANCE COMPANY OF TEXAS  
ECONOMY FIRE & CASUALTY COMPANY  
ECONOMY PREFERRED INSURANCE COMPANY  
ECONOMY PREMIER ASSURANCE COMPANY  
LIBERTY COUNTY MUTUAL INSURANCE COMPANY

### FOR INFORMATION ONLY - NO ACTION REQUIRED

At MetLife Auto & Home, we respect your right to privacy, and maintain the confidentiality of any non-public personal information that we obtain. We treat all your personal information in a confidential manner - before, during and even after your business relationship with us.

**Why we collect information.** When you first apply for insurance with us, we evaluate your application to see whether you and your household members qualify for the policy and rate requested. Once you're a customer, we periodically review your continued eligibility for coverage with us. The review also ensures that you're receiving all the proper discounts or surcharges, and that your policies are properly rated. If for any reason we cannot provide the coverage you asked for, or if the premium for the coverage we can provide is different from the rate quoted by your agent, we'll write to you with the reasons for our decision.

**How we collect information.** Your application and claims are important sources of information for us. However, to properly determine rates and coverages, and as part of our underwriting process, we may request additional information - from you, a resident of your household, one of our affiliates or a third party. For example, if you've purchased more than one product or service from us or an affiliate, we may compare and combine the information received in connection with the purchases. We may ask other carriers for information concerning your coverages and loss activity with them. Also, a consumer reporting agency may provide us with consumer reports (see below).

**How we use information.** We process all applications and renewals uniformly, to ensure that all customers are treated fairly and that all rates are determined on a fair basis. Our information about you is used **only** for business purposes relevant to your relationship with us. For example, we may use this information to:

- determine your eligibility for coverage
- resolve any claims you submit to us
- evaluate an application for one of our other products or services, or those of an affiliate
- let you know about other policies and services offered by us or an affiliate.

**How we protect information.** We require all our employees to protect the confidentiality of your information. Employees may access information only when appropriate - for example, to administer or offer a product or service. To further protect your privacy, we also maintain physical, electronic and procedural safeguards within the company that comply with all applicable laws.

**Information maintenance and disclosure.** In most cases, we will **not** send information about you to third parties without your consent. However, any time disclosure is necessary for the conduct of our business or required by law, we may send some or all of the information to our agents, affiliates or non-affiliated third parties without your consent. For example, we may give information to:

- state insurance departments, for their regulation of our business
- other government authorities
- your representative, Independent Agent or Insurance Broker
- organizations that perform underwriting or claim investigations
- another insurance company to which you have applied for a policy or submitted a claim
- insurance support agencies, law enforcement agencies and our reinsurers
- any other third party, as permitted or required by law.

We may also disclose information about you for audit or research purposes. However, with the exception of joint marketing arrangements that we believe will provide value to you and as permitted by law, we will **not** share your information with non-affiliated third parties for the purpose of marketing their products or services.

Our affiliates include financial services companies such as property and casualty insurers, life insurers, a bank, securities firms, broker dealers and financial advisors and may also include non-financial companies. The type of information that may be disclosed to our affiliates and pursuant to joint marketing arrangements may include name, address, Social Security number, claims history, payment history, underwriting profiles and similar data. Any health-related information may be disclosed in relation to claim(s) but will not be shared for marketing or other purposes.

**Special notice regarding consumer reports.** Any consumer reporting agency that gathers information about you may share this information with others who are authorized to use consumer reports by the Federal Fair Credit Reporting Act or by applicable state credit reporting acts. Insurance companies often obtain these reports from a consumer reporting agency. The reports we usually obtain on you and your household members include Motor Vehicle Records (MVR's), Credit Reports and reports that deal with your claims with us and other insurance companies and the condition and maintenance of your property.

You and your household members may obtain copies of reports by contacting the consumer reporting agency directly. If we've increased your premium, denied or changed your coverage based on consumer report information, the report will be free of charge if you request a copy from the agency within sixty (60) days of our action. We will provide the agency's name and address on our notice to you about any action we take. To dispute or change the information on your consumer report, file your dispute directly with the agency. **Please note:** Consumer reporting agencies are independent and impartial. They simply provide information to us in the form of consumer reports. They do not make insurance decisions and cannot explain our decisions for you.

If you have given us permission on your insurance application, in certain limited circumstances, we may obtain an investigative consumer report. An investigative consumer report goes into more detail than a regular consumer report. You'll find a more complete description of it on your application. If you have not completed a written application, we will request separate authorization before ordering an investigative consumer report. If you want to be interviewed in connection with the preparation of any investigative consumer report, simply indicate this on your application (or separate authorization, if applicable). The agency will then try to contact you.

**Access to, and correction of, information.** Upon your written request, we will send you a copy of the relevant information we have about you in connection with your application or coverage. (We do not provide information collected in connection with a claim or legal proceeding.) If you feel that our information is incorrect, let us know and we will review it. If we agree, we will correct our files. If we do not agree, you may file a short statement of dispute with us. This statement will be included with any information disclosure we make in the future, or sent to anyone you designate who may have received such information in the past two years, or as otherwise required by law. (Minnesota residents may also file an appeal with the Insurance Commissioner.)

**Further information.** If you have any questions, or would like more information about our underwriting or information practices, requesting information from a consumer reporting agency, or learning about the nature and scope of any investigation, please call your representative, Independent Agent, Independent Broker or our Customer Service Department at the number indicated on the Customer Service and Claim Directory.

**This Notice, which applies to you and your household members, is required by law and is given in keeping with the provisions of the Fair Credit Reporting Act, the Financial Services Modernization Act and applicable State Law.**

## IMPORTANT NOTICE

### DEDUCTIBLE SAVINGS BENEFIT YOUR POLICY PROVIDES AN ADDITIONAL BENEFIT AT NO EXTRA COST TO YOU!

**Good news!** You have a money saving feature called the **Deductible Savings Benefit** which rewards you and your family for maintaining good driving records.

#### **How does the Deductible Savings Benefit work?**

You will receive a **\$50.00 credit** towards your Collision or Comprehensive deductible for **each year** you remain claim free! Your credit appears on your Declarations Page at your policy anniversary date, which is 12 months from your policy's initial effective date. So long as you remain "claim free", you will continue to accumulate the \$50 credit on each of your future anniversary dates, until the maximum policy benefit of \$250 has accumulated.

#### **How will I know the amount of the Deductible Savings Benefit that I have accumulated?**

The Deductible Savings Benefit amount and the anniversary date will be displayed on your Declarations Page. You will see the earned benefit and the anniversary date indicating when you will be eligible for your next credit.

#### **When is the Deductible Savings Benefit applied?**

It is applied when you have a covered loss (Collision or Comprehensive). For example, after 3 years of claim free driving, you will have built up a \$150 Deductible Savings Benefit. Your deductible will be reduced by \$150 when you have a covered loss.

#### **If I have a towing or glass claim, can I use my Deductible Savings Benefit?**

No. The Deductible Savings Benefit cannot be used to reduce the deductible of a towing claim or glass loss. However, towing or glass losses do not affect eligibility when calculating the Deductible Savings Benefit amount.

#### **After a loss, when will I begin earning my Deductible Savings Benefit again?**

On the anniversary date, following a 12-month claim free period, you will begin to receive your \$50 Deductible Savings Benefit again.

#### **It pays to be a good driver!**

We want to reward your good driving record by reducing your out-of-pocket expenses at the time of loss. Now, isn't that the way auto insurance ought to be!

If you have any questions, please call your representative, Independent Agent, or our Customer Service Department at the number indicated on the Customer Service and Claim Directory.

**Thank you for insuring with us.**

<b>Policy Number:</b> 2633873700 <b>Policy Effective Date:</b> 07-12-2002 <b>Policy Expiration Date:</b> 01-12-2003 <b>At:</b> 12:01 A.M.	<b>Page 1 of 3</b> <b>Change 01</b> <b>Policy Change Effective Date:</b> 08-02-2002
<b>Named Insured:</b> UNIOR L SHORES 97 S 400 E LINDON UT 84042	<b>Bill to:</b> Insured

Insured Vehicle(s)							
Veh	Year	Make	Model	Body Type	Vehicle ID Number	Sym	Territory
1	1968	PONTIAC	GTO	2 DR	242378B121394	4	05
2	1998	MERCURY	GRAND M	4 DR	2MEFM75W6WX619022	8	05
3	1970	PONTIAC	LEMANS	SPORT	235370Z141765	4	05

Coverage Description		Applicable Limits		Semi-Annual Premiums		
				1968 PONTI	1998 MERCU	1970 PONTI
Personal Injury Protection Liability	- See PIP Information -			18	11	18
Bodily Injury	\$100,000	Per Person/				
	\$300,000	Per Occurrence		63	59	63
Property Damage	\$100,000	Per Occurrence		68	64	68
Uninsured Motorists						
Bodily Injury	\$25,000	Per Person/				
	\$50,000	Per Accident		6	6	6
Property Damage \$250 Ded	\$3,500	Per Accident		2		2
Underinsured Motorists						
Bodily Injury	\$25,000	Per Person/				
	\$50,000	Per Accident		4	4	4
Physical Damage	1968	1998	1970			
	PONTI	MERCU	PONTI			
Actual Cash Value(ACV) or Limit		ACV				
Collision less deductible		\$300			96	
Comprehensive less deductible		\$100			29	
Towing and Labor Limit		\$50		Incl	Incl	
<b>Total Semi-Annual Premium:</b>	<b>\$591.00</b>	<b>Vehicle Totals:</b>		<b>161</b>	<b>269</b>	<b>161</b>
<b>Prior Semi-Annual Premium:</b>	<b>\$428.00</b>					
<b>Change in premium from 08-02-2002 through 01-12-2003: \$143.00</b>						

This Declaration does not supersede any cancellation notices.

#### Deductible Savings Benefit (DSB) \$50

Deductible Savings reduces Collision or Comprehensive deductibles, excluding towing and glass claims, effective 07-12-02 for claims occurring after this date. Your next anniversary date is 01-12-2003. See Important Notice for details.

LR-HK-02

Policy Number: 2633873700  
Policy Effective Date: 07-12-2002  
Policy Expiration Date: 01-12-2003  
At: 12:01 A.M.

Page 2 of 3  
Change 01  
Policy Change Effective Date: 08-02-2002

**PIP Information**

\$3,000 Maximum for Medical Expenses  
85% Loss of Income; Max \$250/wk up to 52 wks  
\$20/day Loss of Services; Max 365 days  
\$1,500 Maximum for Funeral Expenses  
\$3,000 Maximum for Survivor Benefits

**Forms and Endorsements** MPL 6010-000 UT600 UT700A V550 V934 UT400A UT420

**Discounts**

The following have been included in the total semi-annual premium:

30% Airbag Discount applies to 1998 MERCU  
5% Anti-lock Brake Discount applies to 1998 MERCU  
10% Passive Anti-theft Discount applies to 1998 MERCU  
17% MetRewards Discount Applies to 1998 MERCU 1968 PONTI 1970 PONTI

**Rating Information****Household Drivers:**

11/01/21 UNIOR SHORES  
06/17/29 BURDENE SHORES

**IF YOU HAVE A DRIVER IN YOUR HOUSEHOLD WHO IS NOT LISTED ABOVE, PLEASE NOTIFY US IMMEDIATELY.**

Your policy is rated on the following information:

1968 PONTI AH Pleasure use. Not driven to work. Operator age 80 or over. Multi-car discount.  
1998 MERCU AF Pleasure use. Not driven to work. Operator age 70 to 79. Multi-car discount  
1970 PONTI AH Pleasure use. Not driven to work. Operator age 80 or over. Multi-car discount.

Your policy premium does not reflect the presence of any youthful operators of the vehicles on your policy.

Policy Number: 2633873700  
Policy Effective Date: 07-12-2002  
Policy Expiration Date: 01-12-2003  
At: 12:01 A.M.

Page 3 of 3  
Change 01  
Policy Change Effective Date: 08-02-2002

**Messages**

State of Domicile: Rhode Island

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**Updated Policy Information**

Vehicle Added To Policy  
UM Property Damage Added

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Your agency is:  
BOWEN-LEAVITT INSURANCE AGENCY  
Tel: 801-225-2442  
N38-201-1

For claims, see Claim Directory.

<b>Policy Number:</b> 2633873700 <b>Policy Effective Date:</b> 07-12-2002 <b>Policy Expiration Date:</b> 01-12-2003 <b>At:</b> 12:01 A.M.	<b>Page 1 of 3</b>  <b>Renewal Effective Date:</b> 07-12-2002
<b>Named Insured:</b> UNIOR L. SHORES 97 S 400 E LINDON UT 84042	<b>Bill to:</b> Insured

Insured Vehicle(s)							
Veh	Year	Make	Model	Body Type	Vehicle ID Number	Sym	Territory
1	1988	PONTIAC	GTO	2 DR	242378B121394	4	05
2	1998	MERCURY	GRAND M	4 DR	2MEFM75W6WX819022	8	05

Coverage Description	Applicable Limits	Semi-Annual Premiums	
		1988 PONTI	1998 MERCU
Personal Injury Protection Liability	- See PIP Information -	18	11
Bodily Injury	\$100,000 Per Person/ \$300,000 Per Occurrence	63	59
Property Damage	\$100,000 Per Occurrence	68	64
Uninsured Motorists			
Bodily Injury	\$25,000 Per Person/ \$50,000 Per Accident	6	6
Underinsured Motorists			
Bodily Injury	\$25,000 Per Person/ \$50,000 Per Accident	4	4
Physical Damage	1988 1998 PONTI MERCU		
Actual Cash Value(ACV) or Limit	ACV		
Collision less deductible	\$300		96
Comprehensive less deductible	\$100		29
Towing and Labor Limit	\$50	Incl	Incl
<b>Total Semi-Annual Premium: \$428.00</b>	<b>Vehicle Totals:</b>	<b>159</b>	<b>269</b>

### Deductible Savings Benefit (DSB) \$50

Deductible Savings reduces Collision or Comprehensive deductibles, excluding towing and glass claims, effective 07-12-02 for claims occurring after this date. Your next anniversary date is 01-12-2003. See Important Notice for details.

LR-HK-01

Policy Number: 2633873700  
Policy Effective Date: 07-12-2002  
Policy Expiration Date: 01-12-2003  
At: 12:01 A.M.

Page 2 of 3

Renewal Effective Date: 07-12-2002

**PIP Information**

\$3,000 Maximum for Medical Expenses  
85% Loss of Income; Max \$250/wk up to 52 wks  
\$20/day Loss of Services; Max 365 days  
\$1,500 Maximum for Funeral Expenses  
\$3,000 Maximum for Survivor Benefits

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**Forms and Endorsements** MPL 6010-000 UT600 UT700A V550 V934 UT400A

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**Discounts**

The following have been included in the total semi-annual premium:

30% Airbag Discount applies to 1998 MERCU  
5% Anti-lock Brake Discount applies to 1998 MERCU  
10% Passive Anti-theft Discount applies to 1998 MERCU  
17% MetRewards Discount Applies to 1998 MERCU 1968 PONTI

**Rating Information****Household Drivers:**

11/01/21 UNIOR SHORES  
06/17/29 BURDENE SHORES

**IF YOU HAVE A DRIVER IN YOUR HOUSEHOLD WHO IS NOT LISTED ABOVE, PLEASE NOTIFY US IMMEDIATELY.**

Your policy is rated on the following information:

1968 PONTI AH Pleasure use. Not driven to work. Operator age 80 or over. Multi-car discount.  
1998 MERCU AF Pleasure use. Not driven to work. Operator age 70 to 79. Multi-car discount

Your policy premium does not reflect the presence of any youthful operators of the vehicles on your policy.

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Policy Number: 2633873700 Policy Effective Date: 07-12-2002 Policy Expiration Date: 01-12-2003 At: 12:01 A.M.	Page 3 of 3  Renewal Effective Date: 07-12-2002
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**Messages**

State of Domicile: Rhode Island

Your agency is:  
BOWEN-LEAVITT INSURANCE AGENCY  
Tel: 801-225-2442  
N38-201-1

For claims, see Claim Directory.

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# **MetLife<sup>®</sup>** Auto & Home

## **Auto Insurance Policy**

MetLife Auto & Home is a brand of Metropolitan Property and Casualty Insurance Company and its Affiliates. Warwick, RI

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## **AUTO INSURANCE POLICY**

### **WHERE TO FIND IT**

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THE COMPANY NAMED IN THE DECLARATIONS  
Administrative Offices: Warwick, Rhode Island

## AUTO INSURANCE POLICY

### INSURANCE AGREEMENT AND DECLARATIONS

This insurance policy is a legal contract between **you** (the policyholder) and **us** (the Company named in the Declarations). It insures **you** and **your automobile** for the various kinds of insurance **you** have selected, as shown in the Declarations. The Declarations are an important part of this policy. By accepting this policy, **you** agree that the statements contained in the Declarations and in any application are **your** true and accurate representations. This policy is issued and renewed in reliance upon the truth of those representations. This policy contains all agreements between **you** and **us** and any of **our** sales representatives relating to this insurance. **You** must pay the required premium.

The exact terms and conditions are explained in the following pages.

### GENERAL DEFINITIONS

The following words and phrases appear in bold-face type repeatedly throughout this policy. They have a special meaning and are to be given that meaning whenever used in connection with this policy and any endorsement which is part of this policy:

**"AUTOMOBILE"** means a private passenger automobile, pick-up truck, panel truck or van, designed for use mainly on public roads.

**"BODILY INJURY"** means any bodily injury, sickness, disease or death sustained by any person.

**"LOSS"** means direct and accidental loss or damage.

**"MOTOR VEHICLE"** means a land motor vehicle designed for use mainly on public roads other than:

1. a farm type tractor or other farm equipment designed for use principally off public roads, while not upon public roads;
2. a vehicle operated on rails or crawler-treads;
3. a vehicle while located for use as a residence or premises; or
4. a vehicle used as a dwelling or place of business.

**"OCCUPYING"** and **"OCCUPIED"** mean being in or upon, entering into, or alighting from a **motor vehicle**.

**"PROPERTY DAMAGE"** means physical injury to or destruction of tangible property, including the loss of use of such property.

**"RELATIVE"** means a person related to **you** by blood, marriage or adoption (including a ward or foster child) and who resides in **your** household.

**"TRAILER"** means a trailer designed for use with an **automobile** which is not used as an office, store,

display, or passenger trailer. A farm wagon or farm implement is a trailer when used with an **automobile**.

**"WE", "US", "OUR" and "COMPANY"** mean the company named in the Declarations.

**"YOU" and "YOUR"** mean the person(s) named in the Declarations of this policy as named insured and the spouse of such person or persons if a resident of the same household.

## **AUTOMOBILE LIABILITY**

### **ADDITIONAL DEFINITIONS FOR THIS COVERAGE**

The following definitions apply to this coverage only:

**"COVERED AUTOMOBILE"** means:

1. an **automobile** owned by **you** or hired under a written contract for one year or more, which is described in the Declarations, and for which a specific premium is charged.
2. an **automobile** newly acquired by **you**, if:
  - a. it replaces a vehicle described in the Declarations; or
  - b. It is an additional **automobile**, but only if:
    - i. **we** insure all other **automobiles** owned by **you** on the date of acquisition;
    - ii. **you** notify **us** within 30 days of acquisition of **your** election to make this and no other policy issued by **us** applicable to the **automobile**; and
    - iii. **you** pay any additional premium required by **us**.
3. a **substitute automobile**.

**"INSURED"** means:

1. with respect to a **covered automobile**:
  - a. **you**;
  - b. any **relative**; or
  - c. any other person using it within the scope of **your** permission.
2. with respect to a **non-owned automobile**, **you** or any **relative**.

The operation or use of such vehicle must have been with the permission of, or reasonably believed to have been with the permission of, the owner. The operation or use must also have been within the scope of the permission given.

3. any other person or organization if liable due to the acts or omissions of any person described in 1. or 2. above. This provision does not apply if the vehicle is a **non-owned automobile** owned or hired by the person or organization.

**"NON-OWNED AUTOMOBILE" means:**

1. an **automobile** which is not owned by, furnished to, or made available for regular use to **you** or any resident in **your** household.

EXCEPTION: An **automobile** owned by, furnished to, or made available for regular use to any resident in **your** household, is considered a **non-owned automobile** when used by **you**.

2. a commercially rented **automobile** used by **you** or a **relative** on a temporary basis.

**"SUBSTITUTE AUTOMOBILE"** means a **motor vehicle** not owned by **you** or any resident of the same household and which is used with the owner's permission to replace for a short time a **covered automobile**. The **covered automobile** has to be out of use for servicing or repair or because of breakdown, loss or destruction.

**COVERAGE PROVIDED**

We will pay damages for **bodily injury** and **property damage** to others for which the law holds an **insured** responsible because of an accident which results from the ownership, maintenance or use of a **covered automobile**, a **non-owned automobile** or a **trailer** while being used with a **covered automobile** or **non-owned automobile**. We will defend the **insured**, at our expense with attorneys of our choice, against any suit or claim seeking these damages. We may investigate, negotiate or settle any such suit or claim.

**ADDITIONAL BENEFITS WE WILL PROVIDE**

In addition to the limits of liability, we will pay the following expenses incurred in connection with any claim or suit to which the policy applies:

1. Premiums on the following bonds:
  - a. Appeal bonds in any suit we defend.
  - b. Bonds to release attachments in any suit we defend. The total amount of the bonds must not exceed our limit of liability.
  - c. Up to \$250 for any bail bond needed because of an accident or traffic violations arising out of the ownership, maintenance or use of a **covered automobile**.

We have no duty to furnish or apply for any bonds.

2. Court costs levied against the **insured**.
3. Post-judgment interest on all damages following a judgment until we pay, offer or deposit in court the amount due up to our limit of liability.
4. Expenses incurred by the **insured** for first aid to others at the time of a **motor vehicle** accident.
5. Up to \$200 per day for lost wages, but not for loss of other income, if we ask the **insured** to attend a hearing or trial.
6. Other reasonable expenses incurred at our request.

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## COVERAGE EXCLUSIONS

We do not cover:

- A. **bodily injury** to any employee of an **insured** arising out of his or her employment, except domestic employees who are not covered or required to be covered under any workers compensation law.
- B. **bodily injury** to a fellow employee while on the job and arising from the use of a **motor vehicle** or **trailer** in the business of his employers.

EXCEPTION: You are covered in this situation.

- C. **bodily injury** or **property damage** covered under an atomic or nuclear energy liability insurance policy, or that would have been covered had that policy not been terminated upon exhaustion of its limit of liability.

- D. any **motor vehicle** rented to others or used to carry persons for a charge.

EXCEPTION: This exclusion does not apply to shared expense car pools.

- E. **bodily injury** or **property damage** arising out of the business or occupation of selling, leasing, repairing, servicing, storing, or parking vehicles or **trailers**.

EXCEPTION: This exclusion does not apply to the use of a **covered automobile** by you, a **relative**, or by any other person in any such business in which you have an interest as owner or partner.

- F. any **non-owned automobile** while used by any person in any business or occupation.

EXCEPTION: This exclusion does not apply to an **automobile** or **trailer** used therewith, if driven or occupied by you or your chauffeur or domestic servant.

- G. **property damage** caused by any **insured** to:

1. an **automobile** that is owned by, rented to, operated by, or in the care of that **insured**; or
2. any other property that is owned by, rented to, or in the care of any **insured**. This exclusion does not apply to a rented dwelling or private garage.

- H. **bodily injury** or **property damage** caused intentionally by or at the direction of an **insured**.

- I. **bodily injury** to you or any person related to an **insured** by blood, marriage, or adoption who resides in the same household. This exclusion applies regardless of whether demand is made or suit is brought against the **insured** by the injured person or by a third party seeking contribution or indemnity.

- J. **bodily injury** or **property damage** awards designated as punitive, exemplary, or statutory multiple damages.

- K. any **motor vehicle** while it is located inside a facility designed for racing, for the purpose of competing in, practicing for, or preparing for, any prearranged or organized racing or speed contest.

- L. a **non-owned automobile** while used by a **relative** who owns, leases or has available for their regular use, a **motor vehicle** not described in the Declarations.

- M. any motorized vehicle which has less than four wheels.



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## LIMIT OF LIABILITY

The limit of liability shown in the Declarations for "each person" for Bodily Injury Liability is the most we will pay for all damages, including damages for care, loss of consortium, emotional distress, loss of services or death, arising out of **bodily injury** sustained by any one person as the result of any one accident. Subject to this limit for "each person", the limit shown in the Declarations for "each accident" for Bodily Injury Liability is the most we will pay for all damages, including damages for care, loss of consortium, emotional distress, loss of services or death, arising out of **bodily injury** sustained by two or more persons resulting from any one accident.

The limit of liability shown in the Declarations for "each accident" for Property Damage Liability is the most we will pay for all damages to all property resulting from any one accident.

If a single limit of liability is shown in the Declarations for **bodily injury and property damage**, it is the maximum we will pay for any one accident for all damages, including damages for care, loss of consortium, emotional distress, loss of services or death.

The limit of liability shown in the Declarations for this coverage is our maximum limit of liability for all damages resulting from any one accident. This is the most we will pay regardless of the number of:

1. covered persons;
2. claims made;
3. vehicles or premiums shown in the Declarations; or
4. vehicles involved in the accident.

A **motor vehicle** and attached **trailer** are considered one vehicle.

If notice of this policy is given in lieu of security or if we certify this policy as proof under any financial responsibility law, the limit of liability will be applied to provide separate limits for **bodily injury** liability and **property damage** liability to the extent required by such law. Such separate application will not increase the total limit of our liability.

## CONFORMITY WITH FINANCIAL RESPONSIBILITY LAWS

If we certify this policy under any financial responsibility law, this liability coverage will comply to the extent of the liability coverage and limits required by the law.

## OUT OF STATE INSURANCE

If any **insured** becomes subject to a financial responsibility law or the compulsory insurance law or similar laws of another state or Canada because of the ownership, maintenance, or use of a **covered automobile** in that state or Canada, we will interpret this policy to provide the coverage required by those laws. The coverage provided shall be reduced to the extent that other automobile liability insurance applies. No person may in any event collect more than once for the same loss.

## REDUCTIONS

Any amount payable to any person under this section will be reduced by any amount that person is paid under the Uninsured and Underinsured Motorists coverage portion of this policy.

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## OTHER INSURANCE

If there is other similar insurance, **we** will pay **our** fair share.

However, with respect to a **non-owned automobile** or a **substitute automobile**, this insurance will be excess over any other insurance. If there is other excess or contingent insurance, **we** will pay **our** fair share.

**Our** fair share is the proportion that **our** limit bears to the total of all applicable limits.

## PERSONAL INJURY PROTECTION

If applicable, see special state provisions.

## AUTOMOBILE MEDICAL EXPENSE

### ADDITIONAL DEFINITIONS FOR THIS COVERAGE

The following definitions apply to this coverage only:

**"COVERED AUTOMOBILE"** means:

1. an **automobile** owned by **you** or hired under a written contract for one year or more, which is described in the Declarations, and for which a specific premium is charged.
2. an **automobile** newly acquired by **you**, if:
  - a. it replaces a vehicle described in the Declarations; or
  - b. it is an additional **automobile**, but only if:
    - i. **we** insure all other **automobiles** owned by **you** on the date of acquisition;
    - ii. **you** notify **us** within 30 days of acquisition of **your** election to make this and no other policy issued by **us** applicable to the **automobile**; and
    - iii. **you** pay any additional premium required by **us**.
3. a **substitute automobile**.

**"MEDICAL EXPENSES"** means usual, customary and reasonable expenses for necessary medical, surgical, x-ray, ambulance, hospital, professional nursing, funerals and dental services, including prosthetic devices.

**"NON-OWNED AUTOMOBILE"** means:

1. an **automobile**, while being used by **you** or a **relative** with the owner's permission, which is not owned by, furnished to, or made available for regular use to **you** or any resident in **your** household.

EXCEPTION: An **automobile** owned by, furnished to, or made available for regular use to any resident in **your** household, is considered a **non-owned automobile** when used by **you**.

- 
2. a commercially rented **automobile** used by **you** or a **relative** on a temporary basis.

**"SUBSTITUTE AUTOMOBILE"** means a **motor vehicle** not owned by **you** or any resident of the same household and which is used with the owner's permission to replace for a short time a **covered automobile**. The **covered automobile** has to be out of use for servicing or repair or because of breakdown, **loss** or destruction.

#### **COVERAGE PROVIDED**

We will pay reasonable **medical expenses** incurred by **you** or any **relative** for **bodily injury** as a result of an accident involving a **motor vehicle** or **trailer** while being used with an **automobile**.

We will pay reasonable **medical expenses** incurred by any other person for **bodily injury** as a result of:

1. **occupying** or using a **covered automobile** at the time of the accident with **your** consent;
2. being struck by a **covered automobile**; or
3. **occupying a non-owned automobile** if the **bodily injury** results from the operation or occupancy of such **non-owned automobile** by **you** or a **relative**.

#### **COVERAGE EXCLUSIONS**

We do not cover:

- A. **medical expenses** incurred for services furnished more than three years after the date of accident.
- B. any person injured while in a vehicle located for use as a residence or premises.
- C. that portion of any **medical expense** for which benefits are available under any:
  1. premises insurance which affords benefits for **medical expenses**;
  2. law which provides workers compensation or disability benefits; or
  3. personal injury protection coverage of this policy.
- D. **bodily injury** sustained while **occupying**:
  1. a motorized vehicle having less than four wheels; or
  2. a vehicle located for use as a residence or premises.
- E. a **covered automobile** while hired or rented to others for a charge, or any **automobile** which **you** are driving while available for hire by the public.

EXCEPTION: This exclusion does not apply to:

1. **bodily injury** sustained as a pedestrian; or
  2. shared expense car pools.
- F. **bodily injury** arising out of the business or occupation of selling, leasing, repairing, servicing, storing, or parking vehicles or **trailers**.

---

EXCEPTION: This exclusion does not apply to:

1. **bodily injury** sustained as a pedestrian; or
2. the use of a **covered automobile** by **you, a relative**, or by any other person in any business or occupation of selling, leasing, repairing, servicing, storing, or parking vehicles or **trailers**, in which **you** have an interest as owner or partner.

G. any **non-owned automobile** while used by any person in any business or occupation.

EXCEPTION: This exclusion does not apply to:

1. **bodily injury** sustained as a pedestrian; or
2. an **automobile** or its attached **trailer** used by **you, your chauffeur** or **domestic servant**.

H. medical treatment that is experimental in nature which is not accepted as effective therapy by:

1. the state medical association or board;
2. an approved medical specialty board; or
3. the American Medical Association.

I. a **non-owned automobile** while used by a **relative** who owns, leases or has available for their regular use, a **motor vehicle**.

#### **LIMIT OF LIABILITY**

The limit shown in the Declarations for "each person" is the maximum **we** will pay for any one person as a result of any one accident.

The limit of liability shown in the Declarations for this coverage is **our** maximum limit of liability for all damages resulting from any one accident. This is the most **we** will pay regardless of the number of:

1. covered persons;
2. claims made;
3. vehicles or premiums shown in the Declarations; or
4. vehicles involved in the accident.

The total amount **we** will pay includes funeral and burial expenses not to exceed \$1000 for each person.

#### **OTHER INSURANCE**

If there is other similar insurance, **we** will pay **our** fair share. However, with respect to a **non-owned automobile** or a **substitute automobile**, this insurance will be excess over any other insurance. If there is other excess or contingent insurance, **we** will pay **our** fair share. This coverage shall be excess over any personal injury protection benefits paid or payable, except for a deductible under this or any other motor vehicle insurance policy, for **bodily injury** to an eligible person.

**Our** fair share is the proportion that **our** limit bears to the total of all applicable limits.

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## MEDICAL EXPENSE REVIEW

At our option, we may use various cost containment and utilization review measures to identify excessive or inappropriate treatments and expenses. For example, we may use medical bill audits, case management, preferred provider discounts or other such tools.

## UNINSURED AND UNDERINSURED MOTORISTS

### ADDITIONAL DEFINITIONS FOR THESE COVERAGES

The following definitions apply to these coverages only:

**"COVERED AUTOMOBILE"** means:

1. an **automobile** described in the Declarations to which the Automobile Liability coverage of this policy applies and for which a specific premium is charged.
2. an **automobile** newly acquired by you, if:
  - a. it replaces a vehicle described in the Declarations; or
  - b. It is an additional **automobile**, but only if:
    - i. we insure all other **automobiles** owned by you on the date of acquisition;
    - ii. you notify us within 30 days of acquisition of your election to make this and no other policy issued by us applicable to the **automobile**; and
    - iii. you pay any additional premium required by us.
3. a **substitute automobile**.
4. a **motor vehicle**, while being operated by you or a **relative** with the owner's permission, which is not owned by, furnished to, or made available for the regular use to you or any **relative** in your household.

EXCEPTION: A **motor vehicle** owned by, furnished to, or made available for regular use to any **relative** in your household is covered when operated by you.

**"SUBSTITUTE AUTOMOBILE"** means a **motor vehicle** not owned by you or any resident of the same household and which is used with the owner's permission to replace for a short time a **covered automobile**. The **covered automobile** has to be out of use for servicing or repair or because of breakdown, loss or destruction.

**"UNINSURED MOTOR VEHICLE"** means:

1. a **motor vehicle** for which, at the time of the accident, there is no insurance policy or other financial security applicable to the owner, or operator, or any other liable person or organization.
2. a **motor vehicle** which has a bodily injury liability bond or insurance policy in effect at the time of the accident, but the amount of **bodily injury** coverage under such bond or insurance policy is less than the minimum financial security requirements of the state in which the **covered automobile** is principally garaged.

- 
3. a **motor vehicle** which has a bodily injury liability bond or insurance policy in effect at the time of the accident, but the company writing such bond or policy denies coverage, or is or becomes insolvent.
  4. a hit and run **motor vehicle** which causes **bodily injury** to a person covered under this section as the result of striking that person or a **motor vehicle** which that person is **occupying** at the time of the accident, if:
    - a. the identity of the driver and the owner of the hit and run vehicle is unknown;
    - b. the accident is reported within 24 hours to a police officer, a peace or judicial officer, or the Commissioner or Director of Motor Vehicles;
    - c. the injured person or someone on their behalf files with us within 30 days of the accident a statement under oath that the injured person or their legal representative has a cause of action due to the accident for damages against someone whose identity is unknown; and
    - d. the injured person or their legal representative makes available for inspection by us, when requested, the **motor vehicle** occupied by that person at the time of the accident.

The term **uninsured motor vehicle** does not include:

1. a **covered automobile** or **motor vehicle** regularly furnished or available for the use of you or any relative;
2. an **automobile** owned and operated by a self-insurer as defined in the applicable motor vehicle financial responsibility law, compulsory insurance law, motor carrier law, or any other similar applicable law; or
3. an **automobile** owned by the United States of America, Canada, a state, a political subdivision of any such government, or an agency of any of the foregoing.

**"UNDERINSURED MOTOR VEHICLE"** means a **motor vehicle** which has a bodily injury liability bond or insurance policy in effect at the time of the accident, in at least the minimum amount required by the state in which the **covered automobile** is principally garaged, but less than the limits of this coverage provided by this policy as stated in the Declarations.

The term **underinsured motor vehicle** does not include:

1. a **covered automobile** or **motor vehicle** regularly furnished or available for the use of you or any relative;
2. an **automobile** owned and operated by a self-insurer as defined in applicable motor vehicle financial responsibility law, compulsory insurance law, motor carrier law, or any other similar applicable law; or
3. an **automobile** owned by the United States of America, Canada, a state, a political subdivision of any such government, or an agency of any of the foregoing.

#### **UNINSURED MOTORISTS COVERAGE**

This coverage is provided only if a premium is shown in the Declarations.

We will pay damages for **bodily injury** sustained by:

1. **you or a relative**, caused by an accident arising out of the ownership, maintenance, or use of an

---

**uninsured motor vehicle, which you or a relative are legally entitled to collect from the owner or driver of an uninsured motor vehicle; or**

2. **any other person, caused by an accident while occupying a covered automobile, who is legally entitled to collect from the owner or driver of an uninsured motor vehicle.**

**We will also pay damages to any person for damages that person is entitled to recover because of bodily injury sustained by anyone described in 1. or 2. above.**

#### **UNDERINSURED MOTORISTS COVERAGE**

This coverage is provided only if a premium is shown in the Declarations.

**We will pay damages for bodily injury sustained by:**

1. **you or a relative, caused by an accident arising out of the ownership, maintenance, or use of an underinsured motor vehicle, which you or a relative are legally entitled to collect from the owner or driver of an underinsured motor vehicle; or**
2. **any other person, caused by an accident while occupying a covered automobile, who is legally entitled to collect from the owner or driver of an underinsured motor vehicle.**

**We will also pay damages to any person for damages that person is entitled to recover because of bodily injury sustained by anyone described in 1. or 2. above.**

#### **COVERAGE EXCLUSIONS**

**We do not cover:**

- A. **any person occupying or struck by a motor vehicle owned by you or a relative, other than a covered automobile.**
- B. **any person who settles a bodily injury claim, with any liable party, without our written consent.**
- C. **any claim which would benefit any insurer or self-insurer under any workers compensation, disability benefits, or similar law.**
- D. **any claim for which benefits are provided under the Personal Injury Protection or Medical Expense coverage of this policy.**
- E. **any person, other than you, or a relative, while occupying:**

1. **a covered automobile while it is being used to carry persons or property for a fee.**

**EXCEPTION:** This exclusion does not apply to shared expense car pools.

2. **a vehicle while being used without the permission of the owner.**

- F. **bodily injury or property damage awards designated as punitive, exemplary, or statutory multiple damages.**

- G. **a relative who owns, leases or has available for their regular use, a motor vehicle not described in the Declarations.**

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## SETTLEMENT

Whether any person is legally entitled to collect damages under this section, and the amount to which such person is entitled, will be determined by agreement between that person and us. Upon written consent of both parties, any disagreement will be settled by arbitration.

When arbitration applies, it will take place under the rules of the American Arbitration Association, unless other means are required by law or are agreed to by the injured party and us.

If a person seeking coverage files a suit against the owner or driver of the **uninsured or underinsured motor vehicle**, copies of suit papers must be forwarded to us and we have the right to defend on the issues of the legal liability of, and the damages owed by, such owner or driver. However, we are not bound by any judgment against any person or organization obtained without our written consent.

## LIMIT OF LIABILITY

The limit of liability shown in the Declarations for "each person" is the most we will pay for all damages, including damages for care, loss of consortium, emotional distress, loss of services or death, arising out of **bodily injury** sustained by any one person as the result of any one accident. Subject to this limit for "each person", the limit shown in the Declarations for "each accident" for **bodily injury** liability, is the most we will pay for all damages, including damages for care, loss of consortium, emotional distress, loss of services or death, arising out of **bodily injury** sustained by two or more persons resulting from any one accident. This is the most we will pay regardless of the number of:

1. covered persons;
2. claims made;
3. vehicles or premiums shown in the Declarations; or
4. vehicles involved in the accident.

## REDUCTIONS

The lesser of the limits of this insurance or the amount payable under this coverage will be reduced by any amount:

1. paid by or on behalf of any liable parties.
2. paid or payable under any workers compensation, disability benefits or similar laws.
3. paid or payable under the **AUTOMOBILE LIABILITY** section of this policy.

## OTHER INSURANCE

If there is other similar insurance, we will pay only our fair share. The total amount of recovery under all policies will be limited to the highest of the applicable limits of liability of this insurance and such other insurance.

Our fair share is the proportion that our limit bears to the total of all applicable limits. However, if you do not own the **motor vehicle**, our insurance will be excess over other similar uninsured or underinsured insurance available but only in the amount by which the limit of liability of this policy exceeds the limits of liability of the other available insurance. If there is other excess or contingent insurance, we will pay our fair share.



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No payments will be made until the limits of all other liability insurance and bonds that apply have been exhausted by payments.

## **PHYSICAL DAMAGE**

### **ADDITIONAL DEFINITIONS FOR THESE COVERAGES**

The following definitions apply to these coverages only:

**"ACTUAL CASH VALUE"** means the amount that it would cost to repair or replace damaged property, less allowance for physical deterioration and depreciation.

**"COLLISION"** means the upset of an **automobile** or the contact of an **automobile** with another object or vehicle.

**"COVERED AUTOMOBILE"** means:

1. an **automobile** or a **trailer** designed for use with an **automobile**, owned by **you** or hired under a written contract for one year or more and for which a specific premium is shown in the Declarations.
2. an **automobile** newly acquired by **you**, subject to the following:
  - a. If Comprehensive or Collision coverage applies to any **automobile** shown in the Declarations:
    - i. **we** will apply the broadest of these coverages to the newly acquired **automobile**;
    - ii. **you** must notify **us** within 30 days of acquisition, of **your** election to make this and no other policy issued by **us** applicable to the newly acquired **automobile**; and
    - iii. **you** must pay any additional premium required by **us**.
  - b. If Comprehensive or Collision coverage does not apply to any **automobile** shown in the Declarations:
    - i. **we** will provide Comprehensive and Collision coverage subject to a \$500 deductible for the newly acquired **automobile**;
    - ii. **you** must notify **us** within 6 days of acquisition, of **your** election to make this and no other policy issued by **us** applicable to the newly acquired **automobile**; and
    - iii. **you** must pay any additional premium required by **us**.
3. a **substitute automobile**.

**"DEDUCTIBLE"** means the amount of **loss** to be paid by **you**. **We** pay for covered **loss** above the deductible amount.

**"NON-OWNED AUTOMOBILE"** means:

1. an **automobile** or **trailer** while being used by **you** or a **relative**, with the owner's permission, which is not owned by, furnished to, or made available for regular use to **you** or any resident in **your** household.

EXCEPTION: An **automobile** or a **trailer** owned by, furnished to, or made available for regular use to

any resident in your household, is considered a non-owned automobile when used by you.

2. a commercially rented automobile or trailer used by you or a relative on a temporary basis.

**"SUBSTITUTE AUTOMOBILE"** means an automobile or a trailer not owned by you or any resident of the same household and which is used with the owner's permission to replace for a short time a covered automobile. The covered automobile has to be out of use for servicing or repair or because of breakdown, loss or destruction.

#### **COVERAGES PROVIDED**

The following coverages are applicable only if indicated in the Declarations. They apply to the vehicles for which a premium is shown.

#### **COMPREHENSIVE**

We will pay for loss to your covered automobile or to a non-owned automobile, including its equipment, not caused by collision, minus any applicable deductible shown in the Declarations. Coverage is included for a loss caused by, but not limited to, the following:

1. Falling objects or contact with a bird or animal;
2. Fire, explosion or earthquake;
3. Theft or larceny;
4. Windstorm, hail, water or flood;
5. Malicious mischief or vandalism;
6. Riot or civil commotion; or
7. Breakage of glass, even if caused by collision. If your Comprehensive and Collision coverages have different deductibles, the smaller deductible will apply to broken glass.

#### **COLLISION**

We will pay for loss to your covered automobile or to a non-owned automobile, caused by collision, including its equipment, minus any applicable deductible shown in the Declarations.

**Deductible Waiver:** We will waive the deductible if the loss is the result of collision with another vehicle insured by us.

#### **TOWING AND LABOR**

This coverage is provided for vehicles covered under Comprehensive or Collision, as shown in the Declarations.

If the covered automobile is disabled, we will pay up to the maximum limit shown in the Declarations for the costs of labor done at the place of disablement and costs of towing for each disablement.

The deductible does not apply to the above payments.

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## **SUBSTITUTE TRANSPORTATION**

**We** will pay for the cost of substitute transportation if the **covered automobile** is disabled as a result of a **loss** covered under Comprehensive or Collision. For **loss** caused by theft of the **covered automobile**, this coverage is provided in lieu of the substitute transportation costs provided by Item 3. of **ADDITIONAL COSTS WE WILL PAY**.

Payment will begin the day the **covered automobile** is:

1. out of use due to the **loss**, but, in the case of theft of the entire vehicle, 48 hours after the theft is reported to us; or
2. the day **you** leave it at the repair shop.

Payment will be made for the reasonable and necessary time required to repair or replace the **covered automobile**, but, in the case of theft of the entire vehicle, until **we** offer settlement for the theft.

**We** will pay for rental from an auto rental agency, as shown in the Declarations, up to the amount per day, but not more than the maximum amount for each disablement for any one **loss**.

However, if **you** do not rent from an auto rental agency, **we** will pay **you** \$12 per day, but not more than the limit shown in the Declarations for each disablement for any one **loss**.

No **deductible** shall apply to payment for substitute transportation.

## **ADDITIONAL COSTS WE WILL PAY**

1. If a disablement occurs as a result of **loss** to the **covered automobile**, **we** will pay up to \$25 for transportation to reach the intended destination.
2. If a **loss** is caused to the **covered automobile** by a peril insured against under this section, **we** will pay up to \$300 for **loss** to clothes and luggage belonging to **you** or a **relative** which are in the **covered automobile**.
3. If the **covered automobile** is stolen, **we** will pay up to \$25 per day for substitute transportation for the period that will begin 48 hours after the theft is reported to us and will end when **we** offer settlement for the theft. If **you** do not rent from an auto rental agency, **we** will pay **you** \$12 per day. However, the total amount **we** will pay will not be more than \$750.
4. **We** will pay general average and salvage charges for which **you** become legally liable for transporting the **covered automobile**.

The **deductible** does not apply to the above payments.

## **COVERAGE EXCLUSIONS**

**We** do not cover:

- A. any **automobile** while used to carry persons for a fee.

EXCEPTION: This does not apply to shared expense car pools.

- B. a **motor vehicle** not owned by **you** while being used in the business or occupation of selling, leasing, repairing, servicing, storing, or parking **motor vehicles** or **trailers**.

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- C. any **loss** due and confined to wear and tear, freezing, or mechanical or electrical breakdown, unless the **loss** results from a theft.
- D. **tires** unless stolen, damaged by fire or vandalism, or unless another **loss** happens at the same time for which there is coverage under this policy.
- E. **loss** to any electronic equipment designed for the reception, recording or reproduction of sound or video, and any accessories used with such equipment. This includes, but is not limited to:
1. radios and televisions;
  2. tape decks;
  3. compact disc players; or
  4. video cassette recorders.

This exclusion does not apply if the equipment is operated solely from the electrical system of the vehicle and is:

- a. permanently installed in a housing unit or location used by the **automobile** manufacturer for such equipment; or
  - b. a component that is removable from a housing unit permanently installed in the location used by the **automobile** manufacturer for such equipment.
- F. **loss** to electronic equipment designed for receiving or transmitting audio, visual or data signals and any accessories used with such equipment. This includes, but is not limited to:
1. citizens band radios;
  2. two-way mobile radios;
  3. telephones; or
  4. personal computers.

This exclusion does not apply to:

- a. any electronic equipment that operates solely from the electrical system of, and is necessary for the normal operation of the vehicle.
  - b. a telephone permanently installed in a location in the dashboard or console of the vehicle used by the **automobile** manufacturer for a telephone.
- G. **loss** to tapes, records, discs, other media or other devices designed for use with equipment described in exclusions E. and F.
- H. **loss** to a camper or living quarters unit designed for mounting on an **automobile**, unless the unit is reported to us and the required premium is paid before the **loss**.
- I. **loss** due to war, civil war, insurrection, rebellion, or revolution.
- J. **loss** due to radioactive contamination.

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- K. **loss** due to destruction or confiscation by governmental or civil authorities.
- L. **loss** to an **automobile** located inside a facility designed for racing, for the purpose of competing in, practicing for, or preparing for, any prearranged or organized racing or speed contest.
- M. a **non-owned automobile** while used by a relative who owns, leases or has available for their regular use, a **motor vehicle**.
- N. radar and laser detectors.
- O. **loss** to **your covered automobile** or any **non-owned automobile** due to any actual or perceived loss in market or resale value.

#### **MAXIMUM AMOUNT WE WILL PAY**

Our payments will not exceed the lesser of:

1. the **actual cash value** of the property at the time of **loss**; or
2. the cost to repair or replace the property with other of like kind and quality.

If the **loss** is only to a part of the property, our responsibility extends to that part only.

The most we will pay for **loss** to a **trailer** you do not own is \$500.

#### **OTHER INSURANCE**

If **you** have other insurance against a **loss** covered by this policy, **we** will pay our fair share. Our fair share is the proportion that our limit bears to the total of all applicable limits. However, any insurance **we** provide with respect to **non-owned automobiles** or **substitute automobiles** will be excess over any other collectible insurance.

#### **YOUR DUTIES IN THE EVENT OF LOSS**

You must:

1. protect the **automobile** from further **loss**. **We** will pay **you** for reasonable expenses incurred for this protection. **We** will not cover any **loss** which results from **your** failure to protect the **automobile** from further **loss**.
2. file with us a proof of **loss** within 91 days or within the number of days required by law.
3. show us the damaged property and submit to examination under oath upon request.

#### **NO BENEFIT TO BAILEE**

This coverage shall not directly or indirectly benefit any carrier or bailee for hire for **loss** to the **covered automobile**.

#### **RIGHT TO APPRAISAL**

If within 60 days after proof of **loss** is filed, there is a disagreement as to the amount, **you** or **we** may demand an appraisal. Each party will select a competent appraiser. Each appraiser will state separately the **actual cash value** and the amount of **loss**. If they fail to agree, they must select and submit their

differences to a competent and disinterested umpire. Agreement by any two will determine the amount of loss. Each party will pay his chosen appraiser and will equally share the expenses of the appraisal and umpire.

#### **PAYMENT OF LOSS**

We may pay for the loss in money, repair the damaged property, or replace the damaged or stolen property. We may, at any time before the loss is paid or the property replaced, return at our own expense any stolen property. We will return the property to you or to the address shown in the Declarations, at our option. We may take all or part of the damaged property at the agreed or appraised value, but you cannot abandon the property to us. We may settle any claim or loss either with you, the owner, or any other party who has an interest, title, or lien on the property.

#### **GENERAL POLICY CONDITIONS**

##### **1. TERRITORY AND POLICY PERIOD**

This policy applies to accidents and losses which happen while the policy is in effect:

- a. in the United States, its territories or possessions;
- b. in Canada;
- c. while the covered automobile is being shipped between their ports; and
- d. during the policy period shown by the effective date and expiration date in the Declarations, or until the effective date and time of cancellation at your address shown in the Declarations.

##### **2. PREMIUM CHANGES**

- a. All premiums for this policy will be computed in accordance with our rules, rates, rating plans, premiums and minimum premiums which apply to the insurance provided by this policy. The premiums we charge are based on the information provided by you on your application and other information we possess. We are permitted to adjust your premiums when this information changes.

Changes during the policy period that may result in a premium increase or decrease include, but are not limited to, changes in:

- i. the number, type or use classification of the covered automobiles.
- ii. operators using the covered automobiles, including you, relatives and all licensed drivers in your household.
- iii. the principal garaging of the covered automobiles.
- iv. coverage, deductible or limits of the policy.

If a change requires a premium adjustment, we will adjust the premium as of the effective date of the change. Premiums are payable on the dates set forth by us.

- b. We will round all premium adjustments made for any reason to the nearest dollar, in accordance with the manuals in use.

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- c. The policy premium may be re-computed upon expiration of the Policy Period as shown in the Declarations.

### 3. FRAUD AND MISREPRESENTATION

All coverages under this policy are void if, whether before or after a loss, you or any person seeking coverage has:

- a. concealed or misrepresented any material fact or made any fraudulent statements; or
- b. in the case of any fraud or attempted fraud, affected any matter regarding this policy or any loss for which coverage is sought.

### 4. OTHER AUTOMOBILE INSURANCE WITH US

If two or more automobile insurance policies issued by us apply to any accident or loss, the most we will pay is the highest dollar limit or benefit in any one such policy.

### 5. IF AN ACCIDENT OR LOSS OCCURS

You or someone on your behalf must notify us as soon as possible of any accident or loss. The notification should include as many details as possible, including names and addresses of drivers, injured persons and witnesses, and the time, place, and circumstances of the accident or loss. We may require it in writing.

In the event of a theft, you must promptly notify the police. If a claim or suit is made, immediately forward to us every claim, demand, notice, summons, or other process.

If any legal action is begun before we make payment under any coverage, a copy of the summons and complaint or other process must be forwarded to us immediately.

### 6. YOUR DUTY TO COOPERATE

You must cooperate with us in every effort to investigate the accident or loss, settle any claims and defend you.

You must attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. Except at your own cost, you will not voluntarily make any payment, assume any obligation, or incur any expense, other than for first aid to others at the time of the accident.

Under Uninsured and Underinsured Motorists coverage, we may require you to take appropriate action to preserve your right to recover damages from any other person responsible for the bodily injury. Also, in any lawsuit against us, we may require you to join the responsible person as a defendant.

You must submit to examinations under oath as often as we may reasonably require.

These duties also apply to any other person making a claim under this policy.

### 7. LAWSUITS AGAINST US

You may not sue us unless there is full compliance with all of the terms of the policy.

You may not sue us under the Automobile Liability coverage until the amount of legal liability has been finally determined either by judgment after actual trial or by written agreement of you, the claimant and

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**us.** However, no one has the right to make **us** a party in a suit to determine legal responsibility. **Your** bankruptcy or insolvency will not relieve **us** of any obligation under **this** policy.

**You** may not sue **us** under Physical Damage coverage until 30 days after proof of **loss** is filed and the amount of **loss** is determined as provided in this policy.

These conditions also apply to any other person insured under **this** policy.

#### **8. MEDICAL REPORTS; PROOF AND PAYMENT OF CLAIM**

Any person making a claim as a result of **bodily injury**, which may result in payment from Personal Injury Protection coverage or Automobile Medical Expense coverage, must notify **us** in writing. This notification should be sent to **us** as soon as reasonably possible after the person's first examination or treatment resulting from the **bodily injury**. Another person may give **us** the required notice on behalf of the person making a claim.

Any person making a claim must, as soon as possible:

- a. give **us** details about the death, injury, treatment, and other information **we** need to determine the amount payable. **We** have the right to make or obtain a review of **medical expenses** and services to determine if they are reasonable and necessary for the **bodily injury** sustained. Forms for providing this information may be provided by **us**.
- b. consent to be examined by physicians chosen and paid by **us** when, and as often as, **we** reasonably may require.
- c. execute authorizations to permit **us** to obtain medical reports and records. If the person is dead or unable to act, such authorizations must be executed by his or her legal representative.
- d. submit to and provide all details concerning **loss** information through written or recorded statements or examinations under oath as often as **we** reasonably may require.

Under Personal Injury Protection coverage and Automobile Medical Expense coverage, **we** may pay the injured person or any person or organization rendering the services. Any such payment will reduce the total amount **we** will pay for the injury. Any payment by **us** will not constitute admission of liability.

Under Personal Injury Protection coverage and Uninsured and Underinsured Motorists coverage, **we** may pay any amount due to:

- a. the injured person;
- b. if the injured person is a minor, his parent or guardian;
- c. if the person is deceased, the surviving spouse;
- d. the person authorized by law to receive such payment; or
- e. the person entitled by law to recover the damages, which the payment represents.

#### **9. OUR RECOVERY RIGHT**

In the event of any payment under this policy, **we** are entitled to all of the rights of recovery of the person to whom, or on whose behalf, payment was made.



That person must:

- a. hold in trust for **us** all rights of recovery.
- b. sign and deliver to **us** any legal papers relating to the recovery.
- c. help **us** exercise those rights and do nothing after **loss** to prejudice **our** rights.

In the event of recovery, **we** must be repaid for all amounts paid out by **us** plus any related collection expenses. **We** will enforce this provision only in the manner and to the extent permitted under all applicable state laws.

#### 10. POLICY CHANGES

- a. This policy contains all of the agreements between **you** and **us**. The terms of this policy may not be changed or waived except by endorsement issued by **us**.
- b. **We** will automatically give **you** the benefits of any extension or broadening of coverage if a policy change does not require additional premiums. The change will automatically apply to **your** policy as of the date **we** implement the change in **your** state.
- c. **We** may replace this policy to reflect any changes introduced since it was issued. Paragraph b. of this section does not apply to changes implemented with a general revision that includes both the broadening and restriction of coverage, whether that general revision is implemented through introduction of:
  - i. a future edition of **your** policy; or
  - ii. an endorsement changing the policy.

However, any replacement policy will not change the limits of coverage with respect to any accident or **loss** which occurs before it was replaced.

#### 11. ASSIGNMENT

No change of interest in this policy is effective unless **we** consent in writing by means of endorsement to this policy.

If **you** die, this policy will continue for:

- a. the surviving spouse if a resident of the same household;
- b. any legal representative to the extent he is acting within the scope of his duties as such; or
- c. any person having proper temporary custody of the **covered automobile**.

#### 12. TERMINATION

##### CANCELLATION

**You** may cancel this policy by telling **us** on what future date **you** wish to stop coverage.

**We** can cancel this policy by delivering to **you** or by mailing to **you**, at **your** last known address shown on **our** records, notice stating when the cancellation will be effective. This notice will be

mailed to you not less than the minimum statutory time permitted by state law, but:

1. not less than 10 days:
  - a. for non-payment of premium; or
  - b. if this policy has been in effect less than 60 days at the time notice of cancellation is mailed; and
2. not less than 20 days prior to the effective date of cancellation for underwriting reasons if your driver's license or the license of any other driver who either resides in the same household or customarily operates the covered automobile has been suspended or revoked during the 12 month period preceding the effective date of cancellation.

#### **NONRENEWAL**

If we decide not to renew or continue your policy, we will mail notice to you at the last known address shown on our records. Notice will be mailed at least 20 days before the end of the policy period. We will have the right not to renew or continue at the expiration date shown in the Declarations.

If we offer to renew or continue and you do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

#### **OTHER TERMINATION PROVISIONS**

- a. If you obtain other insurance on your covered automobile, any similar insurance provided by this policy will terminate as to that automobile on the effective date of the other insurance.
- b. If the law in effect in your state at the time this policy is issued, renewed or continued:
  - i. requires a longer notice period;
  - ii. requires a special form of or procedure for giving notice; or
  - iii. modifies any of the stated termination reasons;we will comply with those requirements.
- c. Proof of mailing of any notice shall be sufficient proof of notice.
- d. If you cancel, premium may be computed on a short rate basis. If we cancel, premium shall be computed on a pro-rata basis. Return premium shall be rounded to the nearest dollar. Any refund may be returned either at the time cancellation is effected or as soon as possible after cancellation becomes effective, but refund or offer of refund is not a condition of cancellation.
- e. The effective date of cancellation or termination stated in the notice shall become the end of the policy period.

#### **13. LOSS PAYABLE CLAUSE**

If a loss payee is shown in the Declarations, we may pay any comprehensive or collision loss to:

- a. you and, if unpaid, the repairer,

b. **you** and the loss payee, as its interest may appear, when **we** find it is not practical to repair the **covered automobile**; or

c. the loss payee, as to its interest, if the **covered automobile** has been repossessed.

When **we** pay the loss payee for loss, **we** are entitled to the loss payee's right of recovery to the extent of **our** payment. **Our** right of recovery shall not impair the loss payee's right to recover the full amount of its claim.

The coverage for the loss payee's interest will not be invalidated by any act or neglect of **you** or the owner or person legally in possession of the vehicle except:

a. when **you** or the owner or person legally in possession of the **covered automobile** makes fraudulent statement(s) or engages in fraudulent conduct in connection with any loss for which coverage is sought.

b. when the vehicle is intentionally damaged, destroyed or concealed:

i. by or at the direction of **you** or the owner or person legally in possession of the vehicle; or

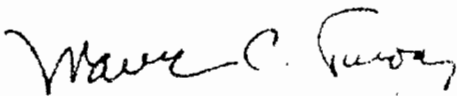
ii. as a result of any other act which constitutes a breach of contract between **you** or the owner and the loss payee.

c. if **you** do not have any insurable interest in the **covered automobile**.

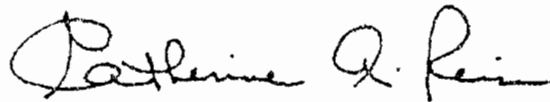
The loss payee must file a claim in writing and comply with the conditions of the policy.

The loss payee's interest may be terminated as permitted by the terms and conditions of the policy and the date of termination of the loss payee's interest will be at least 10 days after the date **we** mail the termination notice.

IN WITNESS WHEREOF, **we** have caused this policy to be signed by its President and its Secretary at Warwick, Rhode Island. In the event that the President or Secretary who signed this contract cease to be **our** officers either before or after the contract is issued, the contract may be issued with the same effect as if they were still **our** officers.



Secretary



President

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UTAH  
UNINSURED MOTORISTS PROPERTY DAMAGE

**UNINSURED AND UNDERINSURED MOTORISTS** is hereby amended to add the following:

Subject to a \$250 deductible, we will pay all sums which the covered person or the legal representative of the covered person shall be legally entitled to recover as damages because of **property damage** to the **covered automobile**, but not including personal property contained therein, caused by the owner or operator of an **uninsured motor vehicle**.

Payment under this coverage shall be payable under the terms and conditions set forth in the policy and shall be made only when the collision involves actual, direct physical contact between the **covered automobile** and the **uninsured motor vehicle** and the owner or operator of the **uninsured motor vehicle** is identified or the **uninsured motor vehicle** is identified by its license number provided that the covered person or someone on behalf of the covered person shall have reported the accident within ten business days to us or our agent.

**ADDITIONAL DEFINITIONS FOR THIS COVERAGE**

When used in this endorsement:

A. **"COVERED AUTOMOBILE"** means:

1. an eligible **automobile** described in the Declarations and to which this uninsured motorists **property damage** endorsement applies;
2. a **substitute automobile**; or
3. any eligible **automobile** which is newly acquired by **you** for which liability coverage is provided in this policy if the **motor vehicle** is used by **you** or with **your** consent.

B. **"UNINSURED MOTOR VEHICLE"** means:

1. a **motor vehicle**, the operation, maintenance, or use of which is not covered under a liability policy at the time of the injury-causing accident; or if the **motor vehicle** is covered, but with lower limits than the minimum limits of liability coverage as provided for in Utah Code Annotated Section 31A-22-304, providing for liability coverage for \$25,000 per person, \$50,000 per accident and \$15,000 because of injury to or destruction of property per accident, then the **motor vehicle** is uninsured to the extent of the deficiency;
2. an unidentified **motor vehicle** which left the scene of an accident proximately caused by its operator;
3. a **motor vehicle** covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days; or
4. an insured **motor vehicle** if before or after the accident the liability insurer of the **motor vehicle** is declared insolvent by a court of competent jurisdiction, but the **motor vehicle** is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

But the term **uninsured motor vehicle** shall not include:

1. a **motor vehicle** which has at least the minimum **property damage** liability limits required

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pursuant to Utah Law even though such **property damage** liability limits are not sufficient to compensate for all **property damage** caused by the owner or operator of the vehicle;

2. **a motor vehicle** owned or operated by any covered person, any resident of **your household** or **self-insured** within the meaning of the financial responsibility provisions of the state in which the **motor vehicle** is registered;
  3. **a motor vehicle** owned by the United States, Canada, a state or political subdivision of any government, or an agency of any of the foregoing; or
  4. **a motor vehicle** or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually on public roads.
- C. **"PROPERTY DAMAGE"** means **loss** or damage to the **covered automobile** resulting from **collision** not to exceed its actual cash value or \$3,500, whichever is less, for which **loss** or damages the person is legally entitled to recover from the owner or operator of an **uninsured motor vehicle**. **Property damage** does not include compensation for **loss** of use of the **motor vehicle**.

#### **LIMIT OF LIABILITY**

Regardless of the number of:

1. **covered persons** under this policy;
2. **persons or organizations** who sustain **property damage**;
3. **claims made or suits brought on account of property damage**; or
4. **covered automobiles** to which this policy applies. Our liability is limited hereunder as follows:
  - a. The limit of **property damage** liability stated in the Declarations is the total limit of **our** liability for all damages because of **property damage** as the result of any one accident.
  - b. **We** shall not be obligated to pay under this insurance that part of the damages which the person making the claim may be entitled to recover from the owner or operator of an **uninsured motor vehicle** which represents **loss** paid or payable to such person under any automobile physical damage insurance of the policy.

#### **OTHER INSURANCE**

The insurance hereunder shall apply only as excess insurance over any other valid and collectible insurance of any kind applicable to such **property damage**.

#### **NON-DUPLICATION OF RECOVERY**

Regardless of the number of insurance policies and coverages applicable to **property damage** to which the insurance provided by this endorsement applies, no person shall recover duplicate benefits for the same expense or loss.

#### **PROOF OF CLAIM**

Any person making claim for **property damage** must report the accident within ten business days to **us** or **our agent**. In addition, they shall file proof of loss with **us** within sixty days after the occurrence of

**loss**, unless such time is extended in writing by us, in the form of a sworn statement setting forth the interest of the person(s) making the claim and of all others in the property affected, any encumbrances thereon, the actual cash value at time of **loss**, the amount, place, time and cause of such **loss**, and the description and amounts of all other insurance covering such property. Upon our request, any person making a claim shall exhibit the damaged property to us. Any claim submitted under this coverage must include the name and address of the at-fault operator and any other information to establish that the at-fault operator is without motor vehicle liability insurance.

#### **SUBROGATION**

In the event of any payment under this coverage, we are entitled to be subrogated to the rights of recovery of the covered person to whom the payment was made against any person legally liable for the damage to the covered automobile to the extent that payment was made. The action may be brought within three years from the date that payment was made. The covered person shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights, and shall do nothing after the **loss** to prejudice such rights.

**PHYSICAL DAMAGE  
SPECIAL LOSS SETTLEMENT**

Under the **PHYSICAL DAMAGE** section:

1. the following is provided for vehicles covered under **Comprehensive or Collision**:

**RENTAL CAR - Additional Costs We Will Pay:**

We will pay expenses for **loss** of use, diminished value and reasonable fees and charges which you become legally obligated to pay as a result of direct and accidental damage to a commercially rented automobile rented by you or a **relative** on a temporary basis.

2. the following are added to **MAXIMUM AMOUNT WE WILL PAY**:

**REPLACEMENT COST FOR SPECIAL PARTS**

We will not take a deduction for depreciation for **loss** to, steering and suspension components, brake parts, electrical wiring and components, batteries, and tires if repair or replacement results in a better part than was damaged. This does not apply to theft of tires or batteries, unless the entire vehicle was stolen.

If the **loss** is only to a part of the property, our responsibility extends to that part only.

**REPLACEMENT COST FOR TOTAL LOSS**

If the **covered automobile** is owned by you and sustains a **total loss** within:

- a. one year after purchase; or
- b. the vehicle's first 15,000 miles,

whichever occurs first, we will pay, at our option, the full cost of repair or replacement, less the applicable **deductible**.

This coverage applies only to a **covered automobile** that has not been previously titled and is not more than one model year old when purchased by you.

This does not apply to a **substitute automobile**, a **non-owned automobile** or a vehicle leased under a long-term contract of 6 months or more.

The following conditions apply:

1. Our liability for any **loss** will not be more than the cost to replace the damaged property with:
  - a. a previously untitled vehicle of the year, make, model and equipment of the damaged **automobile** or, if unavailable,
  - b. a vehicle that is most similar in class and body type to the year, make, model and equipment of the damaged **automobile**.
2. We will not pay for any **loss** before the actual repair or replacement is completed.
3. We have the right to pay the **loss** in money or to repair or replace the damaged **automobile**.



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**"TOTAL LOSS"** means a loss in which the cost to replace or repair the vehicle to its pre-loss condition plus the salvage value, equals or exceeds the **actual cash value**.

All other provisions of the policy apply except as modified by this endorsement.

## ENDORSEMENT UT400A

### UTAH UNINSURED AND UNDERINSURED MOTORISTS ENDORSEMENT

UNINSURED AND UNDERINSURED MOTORISTS is amended as follows:

I. Under **ADDITIONAL DEFINITIONS FOR THESE COVERAGES**:

A. the following definition is added:

1. **"COVERED PERSONS"** means:

- a. **you;**
- b. **any relative;**
- c. **any person occupying or using a covered automobile; or**
- d. **any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under subsection 1. a., b. or c.**

B. under **"UNINSURED MOTOR VEHICLE"**:

1. Item 4. is deleted and replaced by:

- 4. **a motor vehicle which causes bodily injury to a person covered under this section as the result of striking or not striking that person or a motor vehicle which that person is occupying at the time of the accident, if:**
  - a. **the identity of either the driver or owner of the hit and run vehicle is unknown;**
  - b. **the accident is reported within 24 hours to a police officer, a peace or judicial officer, or the Commissioner or Director of Motor Vehicles;**
  - c. **the injured person or their legal representative makes available for inspection by us, when requested, the motor vehicle occupied by that person at the time of the accident; and**
  - d. **when an injured person alleges that an uninsured motor vehicle proximately caused an accident without striking that person or the vehicle occupied by that person, the injured person must show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the injured person's testimony.**

2. the following is added:

- 5. **a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days.**

C. under **"UNDERINSURED MOTOR VEHICLE"**, the first paragraph is deleted and replaced by:

**"UNDERINSURED MOTOR VEHICLE"** means a **motor vehicle** with respect to which insurance or other financial security covering **bodily injury** is in effect at the time of the accident, but its

limit for **bodily injury** liability:

1. is not enough to pay the full amount **you** or any **relative** are legally entitled to recover as damages; or
2. is reduced by payments to others injured in an accident to an amount insufficient to pay the amount **you** or a **relative** are legally entitled to recover as damages .

D. under **UNINSURED MOTORISTS COVERAGE**, item 1, is deleted and replaced by:

1. **you** or a **relative**, caused by an accident arising out of the ownership, maintenance, or use of an **uninsured motor vehicle**, which a **covered person** is legally entitled to collect from the owner or driver of an **uninsured motor vehicle**; or

II. Under **SETTLEMENT**, the following sentence is added to the first paragraph:

Arbitration is not applicable if any small claims court having jurisdiction resolves the disagreement between the involved parties.

III. **OTHER INSURANCE** is deleted and replaced by:

#### **OTHER INSURANCE**

1. The total amount **you** or any **relative** recover under all policies:

- a. while **occupying** an **automobile** owned by **you** or any **relative** will be limited to the highest of the applicable limits of liability for Uninsured Motorists coverage for any one **automobile** under any insurance providing coverage on either a primary or excess basis.
- b. while **occupying** an **automobile** not owned by **you** or any **relative** may equal, but not exceed, the sum of:
  - i. the limits of liability for Uninsured Motorists coverage applicable to the **automobile** **you** or any **relative** were **occupying** at the time of the accident; and
  - ii the highest applicable limits of liability for Uninsured Motorists coverage for any one **automobile** under any insurance providing coverage to **you** or any **relative**.

However, **our** insurance will be excess over other similar available uninsured or underinsured insurance.

- c. while not **occupying** any **automobile** will be the highest applicable limits of liability for Uninsured Motorists coverage for any one **automobile** under any insurance providing coverage to **you** or any **relative**.

## ENDORSEMENT UT600

### UTAH PERSONAL INJURY PROTECTION COVERAGE

#### COVERAGE PROVIDED

We will pay Personal Injury Protection benefits for the following items incurred with respect to **bodily injury** sustained by an **eligible injured person** caused by an accident arising out of the use or operation of a motor vehicle as a motor vehicle:

- a. **medical expenses;**
- b. **work loss;**
- c. **special damage allowance;**
- d. **funeral expenses; and**
- e. **survivor loss.**

You and your spouse will not be entitled to **work loss** benefits if you have waived such coverage in writing.

#### EXCLUSIONS

This coverage does not apply to **bodily injury**:

- a. sustained by any **eligible injured person** while occupying a motor vehicle which is owned by you and which is not an **insured motor vehicle**.
- b. sustained by any person, other than you or any **relative**, while operating or occupying the **insured motor vehicle** without your express or implied consent or while not in lawful possession of the **insured motor vehicle**.
- c. sustained by any person if the conduct of that person contributed to the **bodily injury**:
  - 1. by intentionally causing the **bodily injury**; or
  - 2. while committing a felony.

#### DEFINITIONS

The following words and phrases have a special meaning and are to be given that meaning whenever used in this endorsement:

**"ELIGIBLE INJURED PERSON"** means:

- a. you or any **relative** who sustains **bodily injury** arising out of the use or operation of any **motor vehicle**; and
- b. any other person who sustains **bodily injury** while:
  - 1. occupying the **insured motor vehicle** with your consent;
  - 2. occupying any other **motor vehicle** other than a public or livery conveyance operated by you or

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a relative; or

3. a pedestrian if the accident involves the insured motor vehicle.

**"FUNERAL EXPENSES"** means funeral, burial or cremation expenses incurred.

**"INSURED MOTOR VEHICLE"** means a motor vehicle you own and with respect to which bodily injury liability insurance of this policy applies and for which a specific premium is charged.

**"MEDICAL EXPENSES"** means all reasonable and necessary expenses incurred for medical, surgical, X-ray, dental, rehabilitation (including prosthetic devices), ambulance, hospital and nursing services, and non-medical remedial care and treatment rendered in accordance with a recognized religious method of healing; however, it does not include expenses in excess of those for a semi-private room, unless more intensive care is medically required.

**"MOTOR VEHICLE"** means every self-propelled vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers, and every vehicle which is propelled by electric power obtained from overhead wires, but not operated upon rails.

**"PEDESTRIAN"** means any person not occupying or riding upon a motor vehicle, other than any person occupying or riding upon a motorcycle.

**"RELATIVE"** means any person related to you by blood, marriage or adoption (including a ward or foster child) who is a resident of your household, whether or not temporarily residing elsewhere.

**"SPECIAL DAMAGE ALLOWANCE"** means expenses reasonably incurred for services in lieu of those the eligible injured person would have performed without income, but for the bodily injury, during a period beginning three days after the date of the bodily injury and continuing for a maximum of 365 days thereafter. If that person's inability to perform these services continues in excess of a total of two consecutive weeks after the date of the bodily injury, this three day elimination period shall not be applicable.

**"SURVIVOR LOSS"** means compensation on account of the death of an eligible injured person, payable to that person's estate;

**"WORK LOSS"** means loss of income and loss of earning capacity by the eligible injured person during that person's lifetime, from inability to work during a period beginning three days after the date of the loss and continuing for a maximum of 52 consecutive weeks thereafter. If that person's inability to work continues in excess of a total of two consecutive weeks after the date of the loss, this three day elimination period shall not be applicable.

#### **LIMITS OF LIABILITY**

Regardless of the number of persons insured, policies or bonds applicable, claims made or insured motor vehicles to which this coverage applies, our liability for Personal Injury Protection benefits with respect to bodily injury sustained by any eligible injured person in any one motor vehicle accident is limited as follows:

The maximum amounts payable for Medical Expenses, Special Damage Allowance, Funeral Expenses and Survivor Loss are indicated on the Declarations page.

The maximum amount payable for Work Loss is the lesser of the amount indicated on the Declarations page or eighty five percent (85%) of any loss of gross income and loss of earning capacity from inability

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to work.

Any amount payable by us to any **eligible injured person** under the terms of the coverage selected shall be reduced by:

- a. any benefits that person receives or is entitled to receive as a result of an accident covered under any workers' compensation or similar statutory plan; and
- b. any amounts which that person receives or is entitled to receive from the United States or any of its agencies because he is on active duty in the military service.

#### **CONDITIONS**

1. **Notice To Us.** In the event of an accident, written notice containing particulars sufficient to identify the **eligible injured person**, and also reasonably obtainable information respecting time, place and circumstances of the accident shall be given by or on behalf of each **eligible injured person** to us or any of our authorized agents as soon as practicable. If an **eligible injured person** or legal representative shall institute legal action to recover damages for **bodily injury** against a person or organization who is or may be liable in tort therefore, a copy of the summons and complaint or other process served in connection with such legal action shall be forwarded as soon as practicable to us by such **eligible injured person** or legal representative.

Where the insured under this policy is or would be held legally liable for the personal injuries sustained by any person to whom benefits required under personal injury protection have been paid by another insurer, including the Workers' Compensation Fund of Utah, the insurer of the person who would be held legally liable shall reimburse the other insurer for the payment, but not in excess of the amount of damages recoverable.

The issue of liability for that reimbursement and its amount shall be decided by mandatory, binding arbitration between the insurers.

2. **Reimbursement and Trust Agreement.** In the event of any payment to any person under this coverage:
  - a. we shall be entitled to the extent of such payment to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of such person against any person or organization legally responsible for the **bodily injury** because of which such payment is made. We shall have a lien to the extent of such payment, notice of which may be given to the person or organization causing such **bodily injury**, his agent, his insurer or a court having jurisdiction in the matter.
  - b. such person shall hold in trust for our benefit all rights of recovery which he shall have against such other person or organization because of such **bodily injury**.
  - c. such person shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights.
  - d. such person shall execute and deliver to us instruments and papers as may be appropriate to secure the rights and obligations of such person and us established by this provision.
3. **Non-Duplication of Benefits, Priority of Payments and Other Insurance.** No **eligible injured person** shall recover duplicate benefits for the same elements of loss under this and any similar insurance, including self-insurance.

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In the event an **eligible injured person** is also insured under any other policy, primary coverage is provided by the policy insuring the motor vehicle in use during the accident.

In the event an **eligible injured person** has other similar insurance, including self-insurance, available and applicable to the accident on the same basis, the maximum recovery under all such insurance shall not exceed the amount which would have been payable under the provisions of the insurance providing the highest dollar limit, and we shall not be liable for a greater proportion of any loss to which this coverage applies than the limits of liability hereunder bears to the sum of the applicable limits of liability of this coverage and such other insurance, but this paragraph shall not apply to optional benefits purchased by such **eligible injured person** for additional premiums on a voluntary basis.

# ENDORSEMENT UT700A

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## UTAH STATE PROVISIONS

1. Under **AUTOMOBILE LIABILITY, COVERAGE EXCLUSIONS**, **We do not cover:**, Item 1. is deleted.
2. Under **GENERAL POLICY CONDITIONS**:
  - A. Item 12, **TERMINATION** is deleted and replaced by:

### 12. TERMINATION

#### CANCELLATION

You may cancel this policy by telling us on what future date you wish to stop coverage.

We can cancel this policy by delivering to you or by mailing to you, at your last known address shown on our records, notice stating when the cancellation will be effective. This notice will be mailed to you not less than the minimum statutory time permitted by state law, but:

1. not less than 10 days:
  - a. for non-payment of premium; or
  - b. if this policy has been in effect less than 60 days at the time notice of cancellation is mailed; and
2. not less than 30 days prior to the effective date of cancellation in all other cases.
3. after this policy has been in effect for 60 days we will cancel only:
  - a. for nonpayment of premium;
  - b. if your driver's license or the license of any other driver who either resides in the same household or customarily operates the covered automobile has been suspended or revoked during the 12 month period preceding the effective date of cancellation;
  - c. if the policy was obtained through material misrepresentation;
  - d. if there is a substantial change in risk assumed, unless we should reasonably have foreseen the change or contemplated the risk when entering into the contract; or
  - e. if there are substantial breaches of contractual duties, conditions, or warranties.

#### NONRENEWAL

If we decide not to renew or continue your policy, we will mail notice to you at the last known address shown on our records. Notice will be mailed at least 30 days before the end of the policy period. We will have the right not to renew or continue at the expiration date shown in the Declarations.

If we offer to renew or continue and you do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

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#### OTHER TERMINATION PROVISIONS

- a. If **you** obtain other insurance on your covered automobile, any similar insurance provided by this policy will terminate as to that **automobile** on the effective date of the other insurance.
- b. If the law in effect in your state at the time this policy is issued, renewed or continued:
  - i. requires a longer notice period;
  - ii. requires a special form of or procedure for giving notice; or
  - iii. modifies any of the stated termination reasons;**we** will comply with those requirements.
- c. Proof of mailing of any notice shall be sufficient proof of notice.
- d. If **you** cancel, premium may be computed on a short rate basis. If **we** cancel, premium shall be computed on a pro-rata basis. Return premium shall be rounded to the nearest dollar. Any refund may be returned either at the time cancellation is effected or as soon as possible after cancellation becomes effective, but refund or offer of refund is not a condition of cancellation.
- e. The effective date of cancellation or termination stated in the notice shall become the end of the policy period.

**B. The following is added:**

The following requirements regarding notifying **us** of a loss and "proof of loss" apply in addition to the current policy language:

Notice of loss given by **you** or on **your** behalf to any of **our** authorized agents within Utah, with particulars sufficient to identify the policy, is considered notice to **us**.

Failure to give any "proof of loss" within the time specified in the policy does not invalidate a claim made by **you** if **you** shown that it was not reasonably possible to file the proof of loss within the prescribed time and that proof of loss was filed as soon as reasonably possible.

**MEXICO COVERAGE  
LIMITED**

**WARNING  
READ THIS ENDORSEMENT CAREFULLY**

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

In some cases, the coverage under this endorsement may NOT be recognized by Mexican authorities and we may not be allowed to implement this coverage at all in Mexico.

You should consider purchasing auto coverage from a licensed Mexican Insurance Company before driving into Mexico.

This endorsement does not apply to trips into Mexico that exceed 25 miles from the boundary of the United States of America.

This insurance does not cover legal liability for bodily injury or property damage caused in Mexico.

Under the **PHYSICAL DAMAGE** section, coverage extends to cover losses occurring in Mexico within 25 miles of the United States border. This extension applies only for infrequent trips into Mexico not exceeding 10 days at any one time.

**COVERAGE EXCLUSIONS**

In addition to all of the exclusions for Physical Damage coverage, the following are added for this coverage extension:

We do not cover:

1. if the covered automobile is not principally garaged and used in the United States; and
2. any insured who does not live in the United States.

**SPECIAL CONDITIONS**

**1. Other Insurance**

The insurance provided by this endorsement is excess over any other collectible insurance.

**2. Losses Payable Under Physical Damage Coverage**

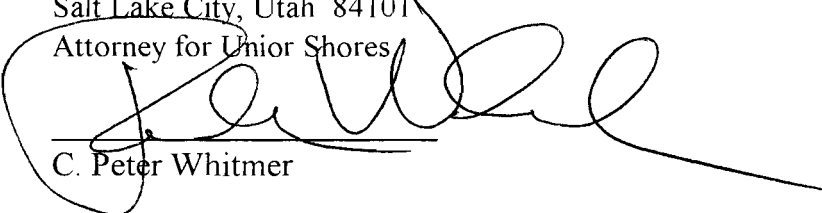
We will pay losses under this coverage in the United States but not in Mexico. If the covered automobile must be repaired in Mexico in order to be driven, we will not pay more than the actual cash value of the loss at the nearest United States point where repairs can be made.

**CERTIFICATE OF SERVICE**

I hereby certify that two true and correct copies of the foregoing "Addendum to Appellants' Brief" was mailed by first class mail, postage prepaid, on the 20<sup>th</sup> day of August, 2005 to each of the following:

Mitchel T. Rice  
Joseph E. Minnock  
Morgan, Minnock, Rice & James, L.C.  
136 S Main St, 8th Flr  
Salt Lake City, Utah 84111  
Attorneys for Liberty Mutual Insurance Company

Ronald W Ady  
10 W 100 South, Suite 425  
Salt Lake City, Utah 84101  
Attorney for Unior Shores

  
\_\_\_\_\_  
C. Peter Whitmer