

PLEASE READ THIS ENDORSEMENT CAREFULLY AS IT CHANGES YOUR POLICY

## PART C – UTAH

### UNINSURED MOTORISTS COVERAGE AND UNDERINSURED MOTORISTS COVERAGE INSURING AGREEMENT

#### A. Uninsured Motorists Bodily Injury Coverage

If the premium for this coverage has been paid, we will pay for compensatory damages that an “insured” is legally entitled to recover from the owner or operator of an “uninsured motor vehicle” for “bodily injury” sustained by an “insured” and caused by an auto accident.

The owner’s or operator’s liability for these damages must:

1. Be due to an auto accident; and
2. Arise out of and be causally connected to the ownership, maintenance, or use of the “uninsured motor vehicle”.

Any payment by us for this **Uninsured Motorists Bodily Injury Coverage** is subject to the limits elected and shown in the Declarations, and as further described in the **Limit of Liability** provision of this endorsement.

#### B. Underinsured Motorists Bodily Injury Coverage

If the premium for this coverage has been paid, we will pay for compensatory damages that an “insured” is legally entitled to recover from the owner or operator of an “underinsured motor vehicle” for “bodily injury” sustained by that “insured” and caused by an auto accident.

The owner’s or operator’s liability for these damages must:

1. Be due to an auto accident; and
2. Arise out of and be causally connected to the ownership, maintenance, or use of the “underinsured motor vehicle”.

Any payment by us for this **Underinsured Motorists Bodily Injury Coverage** is subject to the limits elected and shown in the Declarations and as further described in the **Limit of Liability** provision of this endorsement.

#### C. Uninsured Motorists Property Damage Coverage

If the premium for this coverage has been paid, we will pay for compensatory damages that an “insured” is legally entitled to recover from the owner or operator of an “uninsured motor vehicle” for “property damage” to “your covered auto” caused by an auto accident.

The owner’s or operator’s liability for these damages must:

1. Be due to an auto accident involving direct actual physical contact of the “uninsured motor vehicle” with “your covered auto”; and
2. Arise out of and be causally connected to the ownership, maintenance, or use of the “uninsured motor vehicle”.

No payment will be made for **Uninsured Motorists Property Damage Coverage** unless the:

1. Owner, operator, or license plate number of the “uninsured motor vehicle” causing the accident is identified by name and address, or any other information as proof to establish that the owner or at-fault operator of the “uninsured motor vehicle” has no liability bond or policy that applies at the time of the accident; and
2. “Insured”, or someone on the “insured’s” behalf, reports that accident within 10 days of the accident to us or our agent.

No coverage applies under **PART C** to, or for any type of, “property damage” caused by the owner or operator of an “underinsured motor vehicle”.

Any payment by us for this **Uninsured Motorists Property Damage Coverage** is subject to the limits elected

and shown in the Declarations and as further described in the **Limit of Liability** provision of this endorsement.

- D. "Family member", as used in this endorsement, means a person related to you by blood, marriage, adoption, or guardianship, and who is a resident of your household (even if temporarily living elsewhere but who usually makes his or her home in the same household), including your ward or foster child.

A "family member" also includes the Named Insured's dependent minor children, whether or not the child is a resident of the Named Insured's household.

- E. "Insured" as used in this endorsement means:

1. You or a "family member" while "occupying" "your covered auto".
2. You or a "family member" while not "occupying" a motor vehicle.
3. Any other person while "occupying" "your covered auto" with permission from you.
4. Any person, for damages that person is legally entitled to recover because of "bodily injury" to a person described in this definition in 1., 2., or 3. above. This does not increase our limit of liability in any accident to an amount greater than the limit that applies to the person who has sustained a "bodily injury" and is described in this definition in 1., 2., or 3. above.

However, "insured" shall NOT mean and does NOT include:

1. You;
2. A "family member"; or
3. Any other person;

while "occupying", operating, or otherwise using any vehicle owned by, furnished, or available for the regular use of you or a "family member", if that vehicle is not "your covered auto".

- F. "Minimum limits", as used in this endorsement, means the minimum amounts of liability insurance required under a financial responsibility or compulsory insurance law of the state where "your covered auto" is registered, as shown in our records, that apply to the owner or operator of a private passenger automobile. The minimum limits amount will be the each person/each accident "bodily injury" limit, and each accident "property damage" limit, required by these laws.

If "your covered auto" is shown in our records as garaged in Utah and we have issued you Utah policy forms, then for "minimum limits" as used in **PART C**, the amount is the each person/each accident limits required by the financial responsibility and compulsory insurance laws of the State of Utah, as amended, that apply to a private passenger automobile when this policy is issued. These limits, unless amended by law, are:

1. \$25,000 for all compensatory damages due to "bodily injury" to one person in any one covered accident;
2. \$65,000 for all compensatory damages due to all "bodily injury" in any one covered accident, still subject to the liability limit directly above for one person; and
3. \$15,000 for the total of all "property damage" in any one covered accident.

This described limit will apply when this definition is used in **PART C**.

- G. "Property damage", as used in this endorsement, means physical harm to, or destruction of, only "your covered auto" for which the **Uninsured Motorists Property Damage Coverage** under this policy has been purchased.

"Property damage" does NOT include: any damage to any other property, any amount for loss of use, or any diminution of value.

- H. "Underinsured motor vehicle" means a land motor vehicle for which one or more "bodily injury" liability bonds or policies apply at the time of the accident, but all limits available under those bonds and policies for "bodily injury" liability coverage are insufficient to compensate fully the injured "insured" for all special and general compensatory damages that "insured" is legally entitled to recover for "bodily injury" from the owner and/or operator of that motor vehicle.

This definition only applies for purposes of "bodily injury" and does NOT apply to any type of "property

damage”.

An “underinsured motor vehicle” does NOT include any vehicle or its equipment:

1. Located for use as a residence or premises;
2. Designed for use mainly off public roads, while not on public roads;
3. Operated on rails or crawler treads;
4. Owned by any government or any of its subdivisions or agencies;
5. Shown in the Declarations, or insured under the liability coverage, of this policy;
6. Owned, or leased by you, or any dependent of a Named Insured; or
7. That is an “uninsured motor vehicle”.

I. “Uninsured motor vehicle” means a land motor vehicle that is:

1. Not insured or bonded for liability at the time of the accident;
2. Insured or bonded for liability at the time of the accident, but the:
  - a. Bonding or insuring company denies coverage;
  - b. Bonding or insuring company disputes coverage for the accident for more than 60 days, or coverage continues to be disputed for more than 60 days, after it receives notice of a claim by or on behalf of the “insured”;
  - c. Bonding or insuring company is or becomes insolvent and the claim, or a portion of it, is not paid by a guaranty association or fund; or
  - d. Limit of liability for “bodily injury” and/or “property damage” under that policy or bond is less than the “minimum limits” and no other bond or policy covers that deficiency.
3. For “bodily injury” only, a motor vehicle for which the owner or operator cannot be identified, and that motor vehicle causes an accident resulting in “bodily injury” to an “insured”. If there is no physical contact with that motor vehicle proximately causing the accident and “bodily injury”, then the “insured” shall show the existence of that motor vehicle by clear and convincing evidence consisting of more than that “insured’s” testimony alone; or
4. For “property damage” only, a hit-and-run motor vehicle that causes “property damage” by striking or hitting, with actual direct physical contact with “your covered auto”, if the following conditions have been satisfied:
  - a. The owner, operator, or license plate number of that motor vehicle causing the accident is identified by name and address, or any other information as proof to establish that the owner or at-fault operator of that motor vehicle has no liability bond or policy that applies at the time of the accident; and
  - b. The “insured”, or someone on the “insured’s” behalf, reports that accident within 10 days of the accident to us or our agent.

An “uninsured motor vehicle” does NOT include any vehicle or its equipment:

1. Located for use as a residence or premises;
2. Designed for use mainly off public roads, while not on public roads;
3. Operated on rails or crawler treads;
4. Owned by any government or any of its subdivisions or agencies;
5. Shown in the Declarations, or insured under the liability coverage, of this policy;
6. Owned by, furnished, or available for the regular use of you or a “family member”;
7. Owned or operated by a self-insurer under any motor vehicle law that applies, other than a self-insurer that is or becomes insolvent; or

8. That is an “underinsured motor vehicle”.

### **ADDITIONAL TERMS AND DUTIES**

The coverage provided by this endorsement is also subject to these additional terms and duties:

- A. If the owner or operator of an “uninsured motor vehicle” or “underinsured motor vehicle” has liability insurance, self-insurance, or bond, we will not make a payment under **PART C** to or for an “insured” until after one of the following occurs:
1. You and we agree, in writing, to a written settlement;
  2. If and as allowed by law, as amended, we have been given both:
    - a. Prompt written notice of an offer of settlement by the owner, operator, or insurer of an “uninsured motor vehicle” or “underinsured motor vehicle”; and
    - b. Within 30 days of that offer notice, an opportunity to advance payment to the “insured” in an amount equal to that offer of settlement so as to protect our rights to recover against the liable owner and/or operator, or its insurer; or
  3. The limits of liability under those other applicable liability policies or bonds have been exhausted by payment of judgments or settlements.
- B. Without our prior written consent, we are not bound by:
1. Any settlement for damages; or
  2. Any judgment arising out of a lawsuit;
- against the owner or operator of an “uninsured motor vehicle” or “underinsured motor vehicle”.
- C. In the event of an accident involving a hit-and-run or unidentified vehicle, you, or someone on your behalf, must contact:
1. The police, or other law enforcement with proper jurisdiction, within 24 hours, or as soon as reasonably possible and file a written report with the proper authorities as soon as practicable; and
  2. Us:
    - a. Within 30 days, or as soon as practicable, when that accident results in “bodily injury”; or b. Within 10 days, or as soon as practicable, when that accident results in “property damage”.

### **EXCLUSIONS**

- A. **PART C** does NOT cover “bodily injury” to an “insured” or any person, and does NOT cover “property damage”:
1. If the claim is settled without our written consent and our rights are prejudiced.
  2. That occurs while “occupying” or using a vehicle without permission from the owner, or lawful custodian of the vehicle. This exclusion does not apply to:
    - a. You or a “family member” when “occupying” or using “your covered auto”.
    - b. Medical and/or funeral expenses incurred by an “insured” who is under 18 years of age.
    - c. An “insured” who is a law enforcement officer, as defined by Utah law, and who is injured in the course and scope of that officer’s duties.
  3. That occurs while “your covered auto” is being used to carry persons or property for a fee, or for any delivery of persons or property for compensation or a fee. This exclusion does not apply to shared expense carpools.
  4. That occurs while “occupying”, operating, or otherwise using any vehicle owned by, furnished, or available for the regular use of you or a “family member”, if that vehicle is not “your covered auto”.
  5. That occurs during the commission of a felony by an “insured”. This exclusion does not apply to:

- a. Medical and/or funeral expenses incurred by an “insured” who is under 18 years of age.
  - b. An “insured” who is a law enforcement officer, as defined by Utah law, who is injured in the course and scope of that officer’s duties.
6. That occurs when an “insured”, as a passenger in “your covered auto” has knowledge that the auto is being operated without the consent of its owner or lawful custodian. This exclusion does not apply to:
- a. Medical and/or funeral expenses incurred by an “insured” who is under 18 years of age.
6. An “insured” who is a law enforcement officer, as defined by Utah law, and who is injured in the course and scope of that officer’s duties.
7. Who is involved in any prearranged, organized, or spontaneous race, or who is involved in:
- a. Preparation for a race of this type, but only while in any pit area, on the track or racecourse, or its entrance or exit lanes; or
  - b. Practicing or qualifying for a race of this type.
- A race includes any contest for speed or endurance, whether against another competitor or against a time measuring device.
8. Using “your covered auto” at a:
- a. Racing facility; or
  - b. Facility or roadway temporarily designated for speed, time, racing, or performance driving events. This includes, but is not limited to, the use of “your covered auto” at a performance or racing driving school, a rally in excess of the legal speed limit, or a closed road rally.

However, Exclusions 7.a. and 8. do not apply while “your covered auto” is:

- a. In a race facility’s “paddock” area or a specified show display area;
  - b. Being trailered from one location to another;
  - c. Used by you to attend a racing event as a spectator;
  - d. Being operated for purposes of display in any pre- or post-race parade laps; or
  - e. Involved in an organized event on public roads while operated within legal speed.
9. Using “your covered auto” to prepare, practice, qualify for, or participate in any of the following activities, regardless of where they take place:
- a. Forced hydraulic bouncing competitions or exhibitions;
  - b. Pulling against another vehicle, or pulling of a weighted object during competitions or exhibitions, but not including trailer pulling;
  - c. Stereo thumping competitions or exhibitions; or
  - d. Any other similar competitive or exhibition activity that a reasonable person could foresee may cause injury or damage.

However, this Exclusion 9. does not apply while “your covered auto” is:

- a. In a facility or a specified show display area and is not involved in any competitive or exhibition activity described in this exclusion;
- b. Being trailered from one location to another; or
- c. Used by you to attend an event as a spectator.

B. **PART C** shall NOT apply, directly or indirectly, to benefit any:

- 1. Workers’ compensation or disability benefits insurer;
- 2. Self-insurer under any workers’ compensation, or disability benefits or similar law;

3. Government body or agency; or
  4. Insurer or self-insurer of property.
- C. We do NOT provide any coverage of any kind for any punitive or exemplary damages, however named, and we do not cover any and all:
1. Damages that are separate from sums intended to provide compensation, and are instead intended or awarded to:
    - a. Punish or deter wrongful, malicious, or unlawful conduct by any person or party; or
    - b. Fine, penalize, or impose a statutory penalty; and
  2. Attorney fees, interest, costs, or other fees awarded in connection with the award of any such punitive or exemplary damages.
- D. There is no coverage under **PART C** for or related to any deductible amount for or related to any "property damage", or other unpaid portions of loss or damage related to "property damage", for which you or any "insured" are responsible for under this or any other policy or source of recovery.

### LIMIT OF LIABILITY

Our limit of liability, which is the most we will pay, are the limits shown in the Declarations. Those limits are subject to the following terms:

- A. If a split liability is shown in the Declarations for **Uninsured Motorists Coverage** or **Underinsured Motorists Coverage** for each person and each accident, this is the most we will pay for all covered damages.
1. This limit shall apply to all claims due to "bodily injury" to:
    - a. Any one person in any one accident; and
    - b. Two or more persons in any one accident, subject to the "bodily injury" limit for each person as described in a. above.

This each person limit includes all claims allowed by law and incurred by persons other than the person who sustains the actual "bodily injury" that results from an accident. These claims include, but are not limited to, derivative or independent claims, however labeled and where allowed by law, for: wrongful death; loss of consortium, companionship, society, support, and services; and emotional distress or mental anguish as a result of seeing the accident or "bodily injury".
  2. The limit for "property damage" related to, or arising out of, any one accident, if there is a separate limit shown in the Declarations for **Uninsured Motorists Property Damage Coverage**.
- B. If a single limit of liability is shown in the Declarations for **Uninsured Motorists Coverage** or **Underinsured Motorists Coverage**, this is the most we will pay for the total of all covered damages for "bodily injury" (and if applicable "property damage") resulting from any one accident. We will comply with any law requiring us to provide any separate limits, but this does not increase the total limit of liability that applies to each accident.
- C. There will be no adding, stacking, or combining of limits for any one covered accident no matter the number of:
1. Injured persons, claims, or lawsuits asserted;
  2. Vehicles or trailers involved in the accident;
  3. Insureds on this policy or involved in the accident;
  4. Vehicles or premiums shown in the Declarations; or
  5. Policies issued by us.
- D. The total damages an "insured" is legally entitled to recover because of the accident with the owner or operator of an "uninsured motor vehicle" or "underinsured motor vehicle" shall be reduced by any amount:
1. Paid or to be paid because of "bodily injury" and/or "property damage" by or on behalf of any persons or parties that may be legally responsible for the injury, including, but not limited to, all amounts paid under

**PART A** of this policy;

2. Paid under any medical payments, personal injury protection, and/or no-fault first party benefits coverage;
  3. Paid or payable because of "bodily injury" under any workers' compensation law, disability benefits law, or similar laws, exclusive of any state non-occupational disability benefits law; and
  4. From any other source of recovery, including this or any other insurance policy.
- E. If the Declarations shows you have purchased **Uninsured Motorists Property Damage Coverage**, the limit shown is the most we will pay for all covered "property damage" sustained in any one accident, and is subject to the following:
1. For "property damage", we shall not pay more than the lowest of the:
    - a. Property damage" limits shown in the Declarations for **Uninsured Motorists Property Damage**;
    - b. Cost of repair or replacement; or
    - c. Guaranteed Value® of the damaged property, as shown in the Declarations, at the time of the accident, if the damaged property is "your covered auto".
  2. Our payment will not include, and you are responsible for, the amount of:
    - a. Any deductible that applies as shown in the Declarations for **Uninsured Motorists Property Damage**, or the statutory deductible of the first \$250 of the amount of "property damage" in any one accident, or any higher amount if amended.
    - b. Betterment to any property, including any costs for labor, parts, and materials to repair prior damage, deterioration, and/or defects to the property that had not been repaired prior to the accident.
    - c. The salvage value if you or the owner retains salvage.
  3. We have no duty to cover or pay for any diminution in value.
- F. Duplicate payments will not be allowed or made for the same element of damages, expense, or loss that has been or will be paid by any other coverage under this policy, any other policy, or by any other source.

**OTHER INSURANCE**

As to "bodily injury", and any damages arising from "bodily injury", if there is other uninsured and/or underinsured motorists coverage, or similar type of insurance or source of recovery, that applies or is available under one or more policies:

- A. Except when the "insured" is "occupying" "your covered auto", the coverage under this policy, if applicable, shall be excess to all other insurance, whether that insurance is considered primary, secondary, or excess. If there is other insurance with the same priority as this coverage, we will not pay more than our share of the covered damages or loss. Our share of the covered damages or loss is the proportion that our limit of coverage under **Uninsured Motorists Coverage** or **Underinsured Motorists Coverage** bears to the total of all applicable limits with the same priority as this coverage.
- B. Notwithstanding paragraph A. above in this **Other Insurance** provision, the total recovery under all such policies or coverages cannot be greater than the single highest limit that applies for any one vehicle under one policy of insurance providing coverage on either a primary, secondary, or excess basis; unless the "insured" is a minor dependent child or other person entitled by the Utah insurance laws governing uninsured and underinsured motorists coverage (Utah Insurance Code Title 31A, as amended), to elect and stack another applicable policy providing uninsured or underinsured motorists coverage, as applicable, for the accident so as to cover, if that coverage applies, otherwise uncompensated damages due to the accident, but only in accord with and as limited by those Utah insurance laws, as amended. An "insured" who is a pedestrian injured by an underinsured motor vehicle is also entitled, by the Utah insurance laws governing underinsured motorists coverage (Utah Insurance Code Title 31A, as amended), to recover underinsured motorist benefits under any one other policy under which the person is covered.

As to "property damage", and any damages arising from "property damage", if there is any kind of insurance similar or otherwise, including under **PART D** of this policy, any bond or self-insurance, or any other source of

recovery that applies or is available for or related to “property damage”, then any coverage for **Uninsured Motorists Property Damage Coverage** under this policy shall be excess to any and all other insurance or source of recovery.

In issuing this policy of insurance we have relied upon your representation that you will purchase and maintain other insurance providing this coverage on a primary basis with respect to you and any “family members”. However, this insurance shall be primary to such other insurance for any “insured” while “occupying” or using “your covered auto”.

#### **ARBITRATION**

- A. Arbitration is not available to resolve any disputes as to coverage or policy interpretation issues.
- B. Arbitration may be used if we and an “insured” do not agree as to:
  - 1. Whether or not that “insured” is legally entitled to recover damages; or
  - 2. The amount of damages that “insured” is legally entitled to recover;

from the owner or operator of an “uninsured motor vehicle” or “underinsured motor vehicle”. Any such arbitration is limited to resolving only either one or both of those issues.
- C. If arbitration is elected by either party, unless both parties agree otherwise in writing, the arbitration shall be governed by the rules and procedures set forth in:
  - 1. The Utah insurance laws governing and relating to arbitration of uninsured and underinsured motor vehicle claims (Utah Insurance Code Title 31A, Chapter 22, as amended); and
  - 2. The Utah Arbitration Act (Title 78B, Chapter 11, as amended).
- D. The arbitrators shall have no authority to:
  - 1. Resolve any disputes as to coverage; who is an “insured”; the validity of any coverage election, rejection, or selection; residency status of a claimant; qualification of a person as an “insured”; rights or duties under the policy; statutes of limitations; or other policy interpretation issues;
  - 2. Award any amount greater than the limit of liability; or
  - 3. Award any amount as punitive or exemplary damages, costs, interest, attorney fees, or other fees.

If there is no arbitration, all issues shall be resolved in a court of proper and competent jurisdiction.

#### **LEGAL ACTION AGAINST US**

Under **PART C**, suit or action must start within 4 years after the inception of loss. This does not apply to claims that have been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

All other policy provisions apply.