Before the
Administrative Hearing Commission
State of Missouri

DIRECTOR OF DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION,	)	
Petitioner,	)	No. 13-1380 DI
vs.	)	
THE CINCINNATI INSURANCE COMPANY,	)	
Respondent.	)	

ORDER

On March 11, 2014, the parties filed a joint motion for consent order. We grant the motion, enter the proposed consent order submitted with the motion, and dismiss this case.

SO ORDERED on March 14, 2014.

KAREN A. WINN
Commissioner

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

MAR 11 2014

ADMINISTRATIVE HEARING COMMISSION

DIRECTOR, DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION STATE OF MISSIOURI,	)	
Petitioner,	)	Case No.: 13-1380 DI
vs.	)	
THE CINCINNATI INSURANCE COMPANY,	)	
Respondent.	)	

CONSENT ORDER

Petitioner, John M. Huff, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (the "Director" of the "Department"), through counsel, and Respondent, The Cincinnati Insurance Company ("Cincinnati Insurance"), through counsel, state that all parties have agreed to the following findings of fact and conclusions of law.

Joint Stipulation of Facts

1. Petitioner is the Director of the Department whose duties include, pursuant to Chapters 374 and 375, RSMo, the review and approval of private passenger automobile insurance policy forms.

2. The Department issued a Certificate of Authority to Cincinnati Insurance on May 25, 1982, NAIC number 10677, for lines of authority including but not limited to Property and Liability Insurance, such license has been subsequently renewed annually and is currently active.

3. Cincinnati Insurance submitted and the Department received a filing on June 14, 2013 via the System for Electronic Rate and Form Filing ("SERFF") with a SERFF tracking number of

CNNB-129075196 and which contained six forms relating to private passenger automobile insurance. Said forms were titled:

a. Amendment of Policy Provisions – Missouri, form number CPA1094MO (1/14), ("Amendatory Endorsement") and described as a personal automobile policy endorsement excluding coverage for liability, medical payments, and damage to the insured vehicle in the event the insured is enrolled in a personal vehicle sharing program;

b. Uninsured Motorist Coverage for Bodily Injury and Property Damage Split Limits – Missouri, form number CPA1023MO (1/14), and described as a personal automobile policy endorsement excluding uninsured coverage in the event the insured is enrolled in a personal vehicle sharing program;

c. Uninsured Motorist Coverage for Bodily Injury and Property Damage Single Limit – Missouri, form number CPA1252MO (1/14), (paragraphs b and c hereinafter collectively the "Uninsured Motorist Endorsements") and described as a personal automobile policy endorsement excluding uninsured coverage in the event the insured is enrolled in a personal vehicle sharing program;

d. Underinsured Motorists Coverage Split Limits – Missouri, form number CPA0311MO (1/14), and described as a personal automobile policy endorsement excluding underinsured coverage in the event the insured is enrolled in a personal vehicle sharing program;

e. Underinsured Motorist Coverage Single Limit – Missouri, form number CPA1253MO (1/14) (paragraphs a – e hereinafter collectively "Vehicle Sharing Endorsements"), and described as a personal automobile policy endorsement

excluding underinsured coverage in the event the insured is enrolled in a personal vehicle sharing program;

f. Auto Declarations, form number DDA (1/14), and described as being updated to identify drivers and their corresponding vehicles as well as to display Limits of Insurance in a clearer format.

4. The Vehicle Sharing Endorsements contain provisions within their policy forms, which state that Cincinnati Insurance will not provide the applicable coverages to:

> any "covered person" while "occupying", or when struck by, "your covered auto" while:
>
> 1. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and
> 2. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".

5. The Auto Declarations policy form filing is a blank form, in fact a substantially blank page, containing no language, but which Cincinnati Insurance admits will be filled out prior to issuing the form to the insured.

6. Upon filing, the forms are deemed approved by operation of law, and Cincinnati Insurance may use such forms. §375.920 RSMo.

7. The Department has 60 days to review forms, determine compliance with Missouri law, and petition the Commission for disapproval of forms it believes to be noncompliant. §375.920 RSMo.

8. The Department, upon receipt of the above-mentioned forms, notified Cincinnati Insurance that the forms, as written, would not be approved by the Department because the Department believed the forms were not compliant with Missouri law.

9. In its correspondence of July 3, 2013, the Department stated through objection:

> The Department is working with ISO to make the necessary corrections to their filing. As stated in 20 CSR 500-2.100(4)(A), [the Vehicle Sharing Endorsements] [cannot] be allowed in Missouri. The language proposed is not in compliance with Missouri law and should be removed.

10. In its correspondence of July 10, 2013, Cincinnati responded:

> You 7/3/13 objection letter indicated your department is working with ISO to make the necessary corrections to their filing. As we are tracking the ISO changes with our filing, we will hold off on making any changes to this submission until we are notified of the ISO updates to their filing. We will then make the corresponding changes.

11. After the correspondence but prior to the 60-day deadline, the forms were not amended and the filing was not withdrawn.

12. On July 31, 2013, the Director filed a Petition seeking the disapproval of Cincinnati's policy forms.

13. On September 5, 2013, Cincinnati Insurance filed its Answer.

14. In response to the Department's Petition and objections regarding the above-mentioned forms, Cincinnati Insurance has sought permission from the Department to withdraw the forms at issue.

15. Cincinnati Insurance will re-file amended versions of the above-mentioned forms in the future using language approved by the Department.

16. Cincinnati has not used either the Vehicle Sharing Endorsement forms (paragraph 3e above) or the Auto Declarations form (paragraph 3f above) which are respectively marked and attached to the Departments Petition as Exhibits 1 through 6 and Cincinnati will not use said forms in the future.

17. Cincinnati Insurance's voluntary withdrawal of the forms and the Department's acceptance of such withdrawal eliminates the dispute regarding the forms and the need for this Commission to move on the Director's Petition.

Conclusions of Law

1. Parties to a dispute brought before the Administrative Hearing Commission may consent to the dismissal of the case without a decision by the Commission, pursuant to 1 CSR 15-3.431(3). A consent order is the Commission's dismissal and memorialization that all parties have agreed to dispose of the case without the Commission's decision. 1 CSR 15-3.431. Such a dismissal is appropriate in this case as Cincinnati Insurance has sought to withdraw the forms at issue and the Department has accepted the withdrawal. Further, Cincinnati agrees that it has not used, will not use and will not re-file the forms that the Department attached to its Petition as Exhibits 1 through 6.

ORDER

Based on the Stipulated Facts and the Conclusions of Law, both adopted hereby, this case should be and is hereby dismissed.

So ORDERED on _____, 2014.

_____
Commissioner

Consented to by:

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BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

JUL 31 2013

ADMINISTRATIVE HEARING COMMISSION

DIRECTOR, DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION STATE OF MISSOURI,	)	
Petitioner,	)	
vs.	)	**Case No.:**
THE CINCINNATI INSURANCE COMPANY	)	
Respondent.	)	
Serve:	)	
Kenneth W. Stecher **President of** **The Cincinnati Insurance Company** **6200 South Gilmore Road** **Fairfield, Ohio 45014**	)	
and	)	
Rick Kiefer **Senior Filings Superintendent of** **The Cincinnati Insurance Company** **6200 South Gilmore Road** **Fairfield, Ohio 45014**	)	

PETITION

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, through counsel, petitions and requests the Administrative Hearing Commission find that the submitted policy forms are not in compliance with the insurance laws of this state and do not contain such words, phraseology, conditions and provisions which are specific, certain and unambiguous and reasonably adequate to meet the needed requirements of those insured under such policy, and in support, states as follows:

INFORMATION RELEVANT TO ALL COUNTS

1. Petitioner is the Director ("Director") of the Missouri Department of Insurance, Financial Institutions and Professional Registration whose duties include, pursuant to Chapters 374 and 375, RSMo, the review and approval of private passenger automobile insurance policy forms.

2. The Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") issued a Certificate of Authority to The Cincinnati Insurance Company ("Cincinnati Insurance") on May 25, 1982, NAIC number 10677, for lines of authority including but not limited to Property and Liability Insurance, such license has been subsequently renewed annually and is currently active.

3. Cincinnati Insurance's principal business address is 6200 South Gilmore Road, Fairfield, Ohio 45014-5141.

4. Cincinnati Insurance's mailing address is PO Box 145496, Cincinnati, Ohio 45250-5496.

5. Cincinnati Insurance's telephone number is 513-870-2000.

6. The Department received a filing on June 14, 2013 via the System for Electronic Rate and Form Filing ("SERFF") with a SERFF tracking number of CNNB-129075196 and which contained six forms relating to private passenger automobile insurance. Said forms were titled:

   a. Underinsured Motorists Coverage Split Limits – Missouri, form number CPA0311MO (1/14), and described as a personal automobile policy endorsement excluding underinsured coverage in the event the insured is enrolled in a personal vehicle sharing program; [1]

[1] A true and correct copy of the Underinsured Motorist Coverage Split Limits -Missouri policy form is attached to this Petition as Exhibit 1.

b. Uninsured Motorist Coverage for Bodily Injury and Property Damage Split Limits – Missouri, form number CPA1023MO (1/14), and described as a personal automobile policy endorsement excluding uninsured coverage in the event the insured is enrolled in a personal vehicle sharing program; [2]

c. Amendment of Policy Provisions –Missouri, form number CPA1094MO (1/14), and described as a personal automobile policy endorsement excluding coverage for liability, medical payments, and damage to the insured vehicle in the event the insured is enrolled in a personal vehicle sharing program; [3]

d. Uninsured Motorist Coverage for Bodily Injury and Property Damage Single Limit – Missouri, form number CPA1252MO (1/14), and described as a personal automobile policy endorsement excluding uninsured coverage in the event the insured is enrolled in a personal vehicle sharing program; [4]

e. Underinsured Motorist Coverage Single Limit –Missouri, form number CPA1253MO (1/14) (paragraphs a – e hereinafter collectively "Vehicle Sharing Endorsements"), and described as a personal automobile policy endorsement excluding underinsured coverage in the event the insured is enrolled in a personal vehicle sharing program; [5]

f. Auto Declarations, form number DDA (1/14), and described as being updated to identify drivers and their corresponding vehicles as well as to display Limits of Insurance in a clearer format. [6]

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[2] A true and correct copy of the Uninsured Motorist Coverage for Bodily Injury and Property Damage Split Limits - Missouri policy form is attached to this Petition as Exhibit 2.

[3] A true and correct copy of the Amendment of Policy Provisions -Missouri policy form is attached to this Petition as Exhibit 3.

[4] A true and correct copy of the Uninsured Motorist Coverage for Bodily Injury and Property Damage Single Limits -Missouri policy form is attached to this Petition as Exhibit 4.

[5] A true and correct copy of the Underinsured Motorist Coverage Single Limit -Missouri policy form is attached to this Petition as Exhibit 5.

[6] A true and correct copy of the Auto Declarations policy form is attached to this Petition as Exhibit 6.

7. Said policy forms are not in compliance with the laws of Missouri.

8. The Department has requested Cincinnati Insurance amend the policy forms within the filing to comply with Missouri's insurance laws; however, Cincinnati Insurance has declined to do so.

9. Because these noncompliant policy forms are deemed approved until the Commission determines they should be disapproved, the Director files this petition.

10. Section 375.920, RSMo 2000[7] states in relevant part:

> No insurer shall deliver any policy of private passenger automobile insurance … written upon property within this state until such policy form shall have been approved as provided for in sections 375.920 to 375.923. Upon submission of any form to the director of the department of insurance, financial institutions and professional registration, such form shall be deemed approved. The director of the department of insurance, financial institutions and professional registration shall review such form within sixty days, and may have a hearing during that time. If within that time he determines the policy form is not in compliance with the insurance laws of this state and does not contain such words, phraseology, conditions and provisions which are specific, certain and unambiguous and reasonably adequate to meet the needed requirements of those insured under such policies, he may file a petition with the administrative hearing commission asking that the policy be disapproved, stating specifically the reasons why such policy form shall be disapproved.

11. Section 375.921 states:

> The administrative hearing commission shall hear the petition, and if it finds the policy form shall be disapproved, it shall render specific findings of fact and law disapproving the policy form in that it is not in compliance with the insurance laws of this state and does not contain such words, phraseology, conditions and provisions which are specific, certain and unambiguous and reasonably adequate to meet the needed requirement of those insured under such policies. In all other cases the policy form shall stand approved. During the pending of any action all such forms shall be deemed approved.

[7] All statutory references are to RSMo 2000 unless otherwise indicated.

12. Section 303.190.2 states in relevant part:

> Such owner's policy of liability insurance:
>
> * * *
>
> (2) Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle ... subject to limits ...as follows: twenty-five thousand dollars [for an individual bodily injury], fifty thousand dollars [for all bodily injury related to the incident], and ten thousand dollars [for property damage]; and
>
> (3) May exclude coverage against loss from liability imposed by law for damages arising out of the use of such motor vehicles by a member of the named insured's household who is a specifically excluded driver in the policy.

13. Section 379.203.1 states in relevant part:

> No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered ... in this state with respect to any motor vehicle registered ... in this state unless coverage is provided therein or supplemental thereto, ... for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom.

14. Title 20 CSR 500-2.100(4)(A) states:

> No driver or operator exclusion is acceptable for use on the private passenger auto policy other than as to the named person. These endorsements shall include a provision for the signature of the named insured accepting and acknowledging the restriction in coverage.

15. The Director may file this Complaint pursuant to §375.920.[8]

16. The Commission has jurisdiction over this Complaint pursuant to §375.921.

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[8] *Halpin v. Am. Fam. Mut. Ins. Co.*, 823 S.W.2d 479, 482 (Mo. banc 1992) (Director authorized "to litigate issues about policy language and provisions by petition to the Administrative Hearing Commission.").

COUNT I

17. Cincinnati Insurance submitted to the Department the Vehicle Sharing Endorsements as a policy forms filing, which contains provisions that are not in compliance with the insurance laws of Missouri, are not specific, certain or unambiguous, and are not reasonably adequate to meet the needed requirements of its insureds and thus should be disapproved by the Commission pursuant to §375.921.

18. Petitioner realleges and expressly incorporates the allegations in paragraphs 1 through 16.

19. The Vehicle Sharing Endorsements contain provisions within their policy forms, which state that Cincinnati Insurance will not provide the applicable coverages to:

> any "covered person" while "occupying", or when struck by, "your covered auto" while:
> a. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and
> b. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".[9] [10]

20. The Vehicle Sharing Endorsements should be disapproved for the following specific reasons:

    a. The policy provisions attempt to exclude coverage for permissive drivers other than the named insured or family members when the insured participates in a "vehicle sharing program" thereby failing to comply with 20 CSR 500-2.100(4)(A) in that:

        i. specific drivers or operators are not named for exclusion; and

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[9] *Underinsured Motorists Coverage Split Limits -Missouri*, Exclusions, paragraph B, p. 2 (CPA0311MO (1/14)); *Uninsured Motorists Coverage for Bodily Injury and Property Damage Split Limits -Missouri*, Exclusions, paragraph C, p. 3 (CPA1023MO (1/14)); *Uninsured Motorists Coverage for Bodily Injury and Property Damage Single Limit -Missouri*, Exclusions, paragraph C, p. 3 (CPA1252MO (1/14)); *Underinsured Motorists Coverage Single Limit -Missouri*, Exclusions, paragraph C, p. 2 (CPA1253MO (1/14)).

[10] Substantially similar language occurs in *Amendment of Policy Provisions –Missouri*, Exclusions, paragraphs C and D; Part B –Medical Payments Coverage; and Part D –Coverage for Damage to Your Auto, p. 2-3 (CPA1094MO (1/14)).

ii. the named insured is not able to accept and acknowledge the restriction in coverage of the restricted driver through signature.

b. Because these policy provisions fail to inform the insured of his or her rights, these policy provisions do not accurately reflect Missouri law, and the provisions are not specific, certain, or unambiguous.

c. Because these policy provisions do not reflect the rights provided insureds under Missouri law, the provisions are not reasonably adequate to meet the needed requirements of insureds.

21. Because these policy forms have a provision that does not comply with 20 CSR 500-2.100(4)(A), contain language that is not specific, certain, or unambiguous, and are not reasonably adequate to meet the needs of its insureds, the Commission should disapprove these policy forms pursuant to §375.921.

COUNT II

22. Cincinnati Insurance submitted to the Department the Uninsured Motorist Coverage for Bodily Injury and Property Damage [both Single and Split] Limit – Missouri Endorsements (hereinafter the "Uninsured Endorsements") as policy forms within the filing, which contains provisions that are not in compliance with the insurance laws of Missouri, are not specific, certain or unambiguous, and are not reasonably adequate to meet the needed requirements of its insureds and thus should be disapproved by the Commission pursuant to §375.921.

23. Petitioner realleges and expressly incorporates the allegations in paragraphs 1 through 16.

24. The Uninsured Endorsements contain provisions within their policy forms, which state that Cincinnati Insurance will not provide uninsured motorist coverage to:

any "covered person" while "occupying", or when struck by, "your covered auto" while:

a. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and
b. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".[11]

25. The Uninsured Endorsements should be disapproved for the following specific reasons:

a. The policy provisions attempt to exclude uninsured motorist coverage for permissive drivers other than the named insured or family members when the insured participates in a "vehicle sharing program" thereby failing to comply with section 379.203.1 in that all automotive liability insurance must include uninsured motorist coverage for the protection of insured persons legally entitled to recover damages from an uninsured motorist due to bodily injury caused by that uninsured motorist.

b. Because these policy provisions fail to inform the insured of his or her rights, these policy provisions do not accurately reflect Missouri law, and the provisions are not specific, certain, or unambiguous.

c. Because these policy provisions do not reflect the rights provided insureds under Missouri law, the provisions are not reasonably adequate to meet the needed requirements of insureds.

26. Because these policy forms have a provision that does not comply section 379.203.1, contain language that is not specific, certain, or unambiguous, and are not reasonably

[11] *Uninsured Motorists Coverage for Bodily Injury and Property Damage Split Limits -Missouri*, Exclusions, paragraph C, p. 3 (CPA1023MO (1/14)); *Uninsured Motorists Coverage for Bodily Injury and Property Damage Single Limit - Missouri*, Exclusions, paragraph C, p. 3 (CPA1252MO (1/14)).

adequate to meet the needs of its insureds, the Commission should disapprove these policy forms pursuant to §375.921.

COUNT III

27. Cincinnati Insurance submitted to the Department the Amendment of Policy Provisions – Missouri ("Missouri Amendment") as a policy form filing, which contains a provision that is not in compliance with the insurance laws of Missouri, is not specific, certain or unambiguous, and is not reasonably adequate to meet the needed requirements of its insureds and thus should be disapproved by the Commission pursuant to §375.921.

28. Petitioner realleges and expressly incorporates the allegations in paragraphs 1 through 16.

29. The Missouri Amendment contains a provision within its policy form, which states that Cincinnati Insurance will not provide liability coverage for the insured vehicle when:

    a. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and
    b. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".[12]

30. The Missouri Amendment should be disapproved for the following specific reasons:

    a. The policy provision attempts to exclude liability coverage for permissive drivers other than the named insured or family members when the insured participates in a "vehicle sharing program" thereby failing to comply with section 303.190.2(2) in that all automotive liability insurance must include liability coverage for the insured and all permissive users of the vehicle.
    b. The policy provision attempts to exclude liability coverage for permissive drivers other than the named insured or family members when the insured

[12] *Amendment of Policy Provisions –Missouri*, Exclusions, paragraph C , p. 2-3 (CPA1094MO (1/14)).

participates in a "vehicle sharing program" thereby failing to comply with section 303.190.2(3) in that only a member of the named insured's household who is specifically named as an excluded driver may be excluded from coverage.

c. Because this policy provision fails to inform the insured of his or her rights, this policy provision does not accurately reflect Missouri law, and the provision is not specific, certain, or unambiguous.

d. Because this policy provision does not reflect the rights provided insureds under Missouri law, the provision is not reasonably adequate to meet the needed requirements of insureds.

31. Because this policy form has a provision that does not comply with section 303.190.2, contains language that is not specific, certain, or unambiguous, and is not reasonably adequate to meet the needs of its insureds, the Commission should disapprove this policy form pursuant to §375.921.

COUNT IV

32. Cincinnati Insurance submitted the Auto Declarations policy form filing to the Department, which contains provisions that are not in compliance with the insurance laws of Missouri, are not specific, certain or unambiguous, and are not reasonably adequate to meet the needed requirements of its insureds and thus should be disapproved by the Commission pursuant to §375.921.

33. Petitioner realleges and expressly incorporates the allegations in paragraphs 1 through 16.

34. The Auto Declarations policy form filing is a blank form, in fact a substantially blank page, containing no language, but which the company admits will be filled out prior to issuing the form to the insured.

35. The Auto Declarations policy form should be disapproved for the following specific reasons:

a. Insurers are only allowed to provide policies of private passenger automobile insurance to insureds that have been approved by the Director. By submitting a blank form for approval and then later modifying that form Cincinnati Insurance is attempting to avoid the review process provided in §375.920 to protect insureds. Further, by later modifying a form that had been previously submitted, Cincinnati Insurance would be providing an unsubmitted and unapproved form to insureds in violation of §375.920.

b. Because this form contains no content as submitted, the provisions at the time of review are not specific, certain, or unambiguous.

c. Because this form contains no language for the Director to review as submitted, it is *per se* noncompliant with Missouri law. Regardless of whatever language Cincinnati Insurance later places in the form, because it will not have received the Director's statutory review, the provisions are not reasonably adequate to meet the needed requirements of the insureds.

36. Because this is a blank policy form, it does not comply with §375.920. Additionally, at the time of review, it does not contain language that is specific, certain, or unambiguous. Finally, because the form will be filled with unapproved language at the time of issuance,

it is not reasonably adequate to meet the needs of its insureds. Therefore, the Commission should disapprove this policy form pursuant to §375.921.

WHEREFORE, based on the foregoing, Petitioner respectfully requests the Commission make specific findings of fact and conclusions of law disapproving Respondent's policy forms in that they are not in compliance with the insurance laws of this state, do not contain such words, phraseology, conditions and provisions which are specific, certain and unambiguous and are not reasonably adequate to meet the needed requirements of those insured under such policies.

Respectfully submitted,

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UNDERINSURED MOTORISTS COVERAGE
SPLIT LIMITS - MISSOURI

With respect to premium(s) shown in the declarations, this endorsement is added to Coverage Part **C** of the **PERSONAL AUTO POLICY FA4000T.**

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

1. Sustained by a "covered person"; 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". The "covered person" shall be required to prove all elements of the "covered person's" claim that are necessary to recover from the owner or operator of the "underinsured motor vehicle".

"We" will pay under this coverage for "bodily injury" caused by an "accident" only if **1.** or **2.** below applies:

1. The limits of liability under all applicable bodily injury liability bonds or policies have been exhausted by payments of judgments or settlements; or
2. A tentative settlement has been made between a "covered person" and a person(s) or organization(s) who may be legally responsible for the "accident", or the insurer or legal representative of such person(s) or organization(s) and "we":
   a. Have been given prompt written notice of such settlement; and
   b. Advance payment to the "covered person" in an amount equal to the tentative settlement within 30 days after receipt of notification.

Any judgment for damages arising out of a suit brought without "our" written consent to both the suit and the judgment is not binding on "us".

"Covered person" as used in this endorsement means:

1. "You" or any "family member".
2. Any other person occupying "your" covered auto.
3. Any "covered person" as described in **1.** or **2.** above for damages that "covered person" is entitled to recover because of "bodily injury" to which this coverage applies.

"Motor Vehicle" as used in this endorsement means:

1. A self -propelled vehicle designed for use and principally used on public roads, including an automobile, truck and motorcycle.
2. A motor home, provided the motor home is not stationary and is not being used as a temporary or permanent residence or office.
3. "Motor vehicle" does not include a trolley, streetcar, railroad engine, railroad car, motorized bicycle, golf cart, off-road recreational vehicle, snowmobile, fork lift, aircraft, watercraft, construction equipment, farm tractor or other vehicle designed and principally used for agricultural purposes, mobile home, vehicle traveling on treads or rails or any similar vehicle.

"Underinsured Motor Vehicle" means a land "motor vehicle" or "trailer" for which the limits of coverage available for payment to the "covered person" under all liability bonds or policies covering person(s) or organization(s) liable to the "covered person" at the time of the "accident" are not enough to pay the full amount the "covered person" is legally entitled to recover as damages.

However, "underinsured motor vehicle" does not include any "motor 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 minimum limit for bodily injury liability specified by the financial responsibility law of the state in which "your covered auto" is principally garaged.

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EXHIBIT
tabbies
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2. Owned by or furnished or available for "your" regular use of "you" or that of any "family member" or any other "covered person".

3. Operated on rails or crawler treads.

4. Designed mainly for use off public roads while not upon public roads.

5. While located for use as a residence or premises.

6. Owned or operated by a person qualifying as a self-insurer under any applicable motor vehicle law.

7. 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.

8. For which liability coverage is afforded under this policy.

EXCLUSIONS

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

   1. By a "covered person" while "occupying", or when struck by, any "motor vehicle" owned by that "covered person" which is not specifically identified in this policy, or is not a newly acquired or replacement "motor vehicle" 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 "covered person" while "occupying", or when struck by, "your covered auto" while:

   1. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and

   2. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".

C. This coverage shall not apply in excess of the minimum limits of insurance required by the financial responsibility law of Missouri to benefit any insurer or self-insurer, directly or indirectly, under any of the following or similar law:

   1. If that "covered person" settles the "bodily injury" claim with the person(s) or organization(s) legally responsible for the "accident" or the insurer or legal representative of such person(s) or organization(s) without "our" written consent and such settlement prejudices "our" right to recover.

   2. When "your covered auto" is being used to carry persons or property for a fee. This exclusion **(C.2.)** does not apply to a share-the-expense car pool.

   3. While operating or "occupying" a "motor vehicle" without a reasonable belief that that "covered person" is entitled to do so. Under no circumstances will a person whose license has been suspended, revoked or never issued be held to have a reasonable belief that that "covered person" is entitled to operate a "motor vehicle". This Exclusion **(C.3.)** does not apply to a "family member" using "your covered auto" which is owned by "you".

D. This coverage shall not apply in excess of the limits required by the Financial Responsibility Law to benefit any insurer or self insurer, directly or indirectly, under any of the following or similar law:

   1. Workers' compensation law;

   2. Disability benefits law;

   3. Personal injury protection benefits; or

   4. Pension statutes.

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E. This Uninsured Motorists Coverage does not apply to pay punitive or exemplary damages.

LIMIT OF INSURANCE

A. The limit of insurance shown in the Declarations for each person for Underinsured Motorists Coverage is "our" maximum limit of insurance 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 insurance shown in the declarations for each "accident" for Underinsured Motorists Coverage is "our" maximum limit of insurance prescribed by Missouri statute 379.204 for all damages for "bodily injury" 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".

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 Underinsured Motorists Coverage, "we" will pay only "our" share of the loss. "Our" share is the proportion that "our" limit of insurance bears to the total of all applicable limits.

If there is other applicable Underinsured Motorists Coverage available under one or more policies or provisions of coverage:

1. The maximum recovery under all the policies combined may equal but not exceed the highest applicable limit for any one "motor vehicle" under any policy providing coverage on either a primary or excess basis.
2. Subject to all other provisions of this policy, including but not limited to:
   a. Exclusion **A.** of this endorsement;
   b. Paragraph **A.** of the **Limit of Insurance** provision of this endorsement;
   c. Paragraph **1.** of the **Other Insurance** provision of this endorsement; and
   d. The **Two or More Auto Policies** provision of this policy;

   any insurance "we" provide with respect to a "motor vehicle" "you" do not own, including any "motor vehicle" while used as a temporary substitute for "your covered auto", shall be excess over any collectible underinsured motorists insurance providing such coverage on a primary basis. "We" will pay only the amount by which the limit of insurance for this coverage exceeds the limits of such other insurance.
3. If the coverage under this endorsement 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 insurance bears to the total of all applicable limits of insurance for coverage provided on a primary basis.
   b. On an excess basis, "we" will pay "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 insurance bears to the total of all applicable limits of insurance for coverage provided on an excess basis.

ARBITRATION

If "we" and a "covered person" do not agree:

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1. Whether that "covered person" is legally entitled to recover damages from a party responsible for the "accident"; or

2. As to the amount of damages that may be recovered;

the matter may be settled by arbitration. However, disputes concerning coverage under this endorsement may not be arbitrated.

The "covered person" and "we" must mutually agree to arbitrate the disagreements. If the "covered person" and "we" do no agree to arbitrate, then the disagreement will be resolved in a court having competent jurisdiction.

If arbitration is used, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days as to the third arbitrator, either may request that selection be made by a judge of a court having jurisdiction. Each party will:

1. Pay the expenses it incurs; and

2. Bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the "covered person" 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 "covered person" is legally entitled to recover damages from a party responsible for the "accident"; and

2. The amount of damages.

ADDITIONAL DUTIES FOR UNDERINSURED MOTORISTS COVERAGE

A "covered person" seeking Underinsured Motorists Coverage must also:

1. Promptly send "us" copies of legal papers if a suit is brought.

2. Promptly notify "us" in writing of a tentative settlement between a "covered person" and a person(s) or organization(s) who may be legally responsible for the "accident", or the insurer or legal representative of such person(s) or organization(s) and allow "us" 30 days to advance payment to that "covered person" in an amount equal to the tentative settlement, to preserve "our" rights against the person(s) or organization(s) who may be legally responsible for the "accident", or the insurer or legal representative of such person(s) or organization(s).

3. Cooperate with "us" in the investigation, settlement or defense of any claim or suit. Cooperation includes, but is not limited to, identifying all parties who may be responsible for the "accident" and all insurers who may be obligated to provide coverage.

LEGAL ACTION AGAINST US

No lawsuit or action whatsoever or any proceeding in arbitration shall be brought against "us" for the recovery of any claim under the provisions of the Underinsured Motorists Coverage of this policy unless the "covered person" has satisfied all of the things that "covered person" is required to do under the terms and conditions of this endorsement. In addition, under Part **A.**, no lawsuit or action whatsoever or any proceeding in arbitration shall be brought against "us" until:

1. "We" agree in writing that the "covered person" has an obligation to pay; or

2. The amount of that obligation has been finally determined by judgment after trial.

Any claim or suit for Underinsured Motorists Coverage must be brought within ten (10) years of the date of the "accident" causing the "bodily injury". "Our" subrogation rights also must not be prejudiced.

OUR RIGHT TO RECOVER PAYMENT

If "we" make a payment and the "covered person" recovers from another party, the "covered person" shall:

1. Hold the proceeds in trust for "us"; and

2. Pay "us" back the amount "we" have paid.

The person to or for whom payment was made shall do:

1. Whatever is necessary to enable "us" to exercise "our" rights; and

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2. Nothing after loss to prejudice them.

However, "our" right to recover payment shall not apply if "we":

1. Have been given prompt written notice of a tentative settlement between a "covered person" and a person(s) or organization(s) who may be legally responsible for the "accident", or the insurer or legal representative of such person(s) or organization(s); and

2. Fail to advance payment to the "covered person" in an amount equal to the tentative settlement within 30 days after receipt of the notification.

If "we" advance payment to the "covered person" in an amount equal to the tentative settlement within 30 days after receipt of the notification:

1. That payment will be separate from any amount the "covered person" is entitled to recover under the provisions of this Uninsured Motorist Coverage; and

2. "We" also have a right to recover the advanced payment.

All other provisions of this policy apply.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UNINSURED MOTORISTS COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE SPLIT LIMITS -MISSOURI-

With respect to premium(s) shown in the declarations, this endorsement is added to Coverage Part **C** of the **PERSONAL AUTO POLICY FA4000T.**

INSURING AGREEMENT

"We" will pay compensatory damages which a "covered person" is legally entitled to recover from the owner or operator of an "uninsured motor vehicle" because of:

1. "Bodily injury":
   a. Sustained by a "covered person"; and
   b. Caused by an "accident".
2. "Property damage" caused by an "accident" if the Declarations indicates that both "bodily injury" and "property damage" Uninsured Motorists Coverage applies.

The owner's or operator's liability for these damages must arise out of the ownership, maintenance, or use of the "uninsured motor vehicle". The "covered person" shall be required to prove all elements of the "covered person's" claim that are necessary to recover from the owner or operator of the "uninsured motor vehicle".

No judgment for damages arising out of a suit brought against the owner or operator of an "uninsured motor vehicle" is binding on "us" unless "we":

1. Received reasonable notice of the pendency of the suit resulting in the judgment; and
2. Had a reasonable opportunity to protect "our" interests in the suit.

"We" will pay under this endorsement if the limits of Insurance under all applicable liability bonds or policies have been exhausted by payment of judgments or settlements.

"Accident" as used in this endorsement means the operation of an "uninsured motor vehicle" resulting in "bodily injury" or "property damage".

"Covered person" as used in this endorsement means:

1. "You".
2. Any "family member" who does not own an auto.
3. Any "family member" who owns an auto, but only while "occupying" "your covered auto".
4. Any other person "occupying" "your covered auto".
5. Any person for damages that person is entitled to recover damages because of "bodily injury" to which this insurance applies sustained by a person described in **1.**, **2.**, **3.** or **4.** above.

"Motor vehicle" as used in this endorsement means:

1. A self-propelled vehicle designed for use and principally used on public roads, including an automobile, truck and motorcycle.
2. A motor home, provided the motor home is not stationary and is not being used as a temporary or permanent residence or office.
3. "Motor vehicle" does not include a trolley, streetcar, railroad engine, railroad car, motorized bicycle, golf cart, off-road recreational vehicle, snowmobile, fork lift, aircraft, watercraft, construction equipment, farm

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tractor or other vehicle designed and principally used for agricultural purposes, mobile home, vehicle traveling on treads or rails or any similar vehicle.

"Property Damage" as used in this endorsement means:

1. Injury to or destruction of "your covered auto".
2. Injury to or destruction of any property owned by a person listed in **1.** and **2.** of "covered person" while contained in "your covered auto".
3. Loss of use of damaged or destroyed property.

   "We" will pay up to $15 per day, to a maximum of $450, for such loss of use.

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

1. To which no liability bond or policy applies at the time of "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 Missouri.
3. Which with respect to damages for "bodily injury" only, is a hit-and-run vehicle and neither the operator nor owner can be identified. The vehicle must either:

   a. Hit "you" or any "family member", "your covered auto" or a vehicle "you" or any "family member" is "occupying"; or

   b. Cause "bodily injury" to "you" or any "family member" without hitting "you" or any "family member", "your covered auto" or a vehicle "you" or any "family member" is "occupying".

   "We" will only accept convincing evidence which may include the testimony, under oath, of a person making claim under this or similar coverage.
4. To which a 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 within two years of the date of the "accident".

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

1. Owned by or furnished or available for the regular use of "you" or any "family member" or any "covered person" to the extent that the limits of insurance for this coverage exceed the minimum limits of insurance required by the financial responsibility law of Missouri.
2. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer which is or becomes insolvent.
3. Operated on rails or crawler treads.
4. Designed mainly for use off public roads while not on public roads.
5. While located for use as a residence or premises.
6. For which liability coverage is afforded under this policy.

EXCLUSIONS

A. "We" do not provide Uninsured Motorists Coverage for "bodily injury" sustained by a "family member" who does not own an auto, 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 "property damage" or "bodily injury" sustained by any "covered person":

   1. If that person(s) or organization(s) legally responsible for the "accident" or the insurer or legal representative of such person(s) or organization(s) settles the "bodily injury" or "property damage" claim and such settlement prejudices "our" right to recover payment to the extent that the limits of insurance for this coverage exceed the minimum limits of insurance required by the financial responsibility law of Missouri.

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2. Using a vehicle without a reasonable belief that "covered person" 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".

3. If the property is contained in or struck by a "motor vehicle" (other than "your covered auto") owned by "you" or any "family member".

4. In excess of the minimum limits of insurance required by the financial responsibility law of Missouri, while "occupying" "your covered auto" when it is being used as a public or livery conveyance. This Exclusion **(B.4.)** does not apply to a share the expense car pool.

5. For the first $250 of the amount of "property damage" to the property of a "covered person" as the result of any one "accident". This exclusion does not apply if:

   a. "Your covered auto" is legally parked and unoccupied while involved in an "accident" with an "uninsured motor vehicle";

   b. The Declarations of this policy indicates "collision" coverage is provided for "your covered auto" and the damage to "your covered auto" exceeds $200; or

   c. "You" elect to have this loss paid under "Collision" coverage due to inadequate limits of insurance for "property damage" caused by an "uninsured motor vehicle" and the damage to "your covered auto" exceeds $200, in which case, any "Collision" deductible applicable to the damage to "your covered auto" will be waived.

C. "We" do not provide Uninsured Motorists Coverage for "bodily injury" sustained:

By any "covered person" while "occupying", or when struck by, "your covered auto" while:

1. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and

2. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".

D. 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;

3. Personal injury protection benefits; or

4. Pension statutes.

E. This coverage does not apply to pay punitive or exemplary damages.

LIMIT OF INSURANCE

A. If "bodily injury" is sustained in an "accident" by "you" or any "family member":

1. The sum of the limits of "bodily injury" insurance shown in the Declarations for each person for Uninsured Motorists Coverage is "our" maximum limit of insurance for all damages, including damages claimed by any person or organization for care, loss of services or death, due to and arising out of "bodily injury" sustained by any one "covered person" in such "accident".

2. Subject to the maximum limit for each person described in **A.1.** above, "our" maximum limit of insurance for all damages arising out of "bodily injury" resulting from any one "accident" is the sum of the limits of insurance shown in the Declarations for each "accident" for Uninsured Motorists Coverage.

3. Subject to the maximum limits of insurance set forth in **1.** and **2.** above:

   a. The most "we" will pay for "bodily injury" sustained in such "accident" by a "covered person" other than "you" or any "family member" is that "covered person's" pro-rata share of the each person or each "accident" limit of insurance shown in the Declarations applicable to the vehicle that "covered person" was "occupying" at the time of the "accident" that does not exceed the minimum limits required by the financial responsibility law of Missouri; and

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b. "You" or any "family member" who sustains "bodily injury" in such "accident" will also be entitled to a pro-rata share of the each person or each "accident" limit described in Paragraph **3.a.** above.

A person's pro-rata share shall be the proportion that that person's damages bears to the total damages sustained by all "covered persons".

The maximum limit of insurance 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".

B. If "bodily injury" is sustained by any "covered person" other than "you" or any "family member" in an "accident" in which neither "you" nor any "family member" sustained "bodily injury":

1. The limit of insurance shown in the Declarations for each person for Uninsured Motorists Coverage applicable to the "your covered auto" the "covered person" was "occupying" at the time of the "accident" is "our" maximum limit of insurance for all damages, including damages for care, loss of services or death, arising out of "bodily injury" sustained by any one person in any such "accident".
2. Subject to this maximum limit for each person described in **B.1.** above, the limit of insurance shown in the Declarations for each "accident" for Uninsured Motorists Coverage applicable to the "your covered auto" the "covered person" was "occupying" at the time of the "accident" is "our" maximum limit of insurance for all damages for "bodily injury" resulting from any such "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".

This section **(B)** will not change "our" Limit of Insurance.

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

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

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

1. Workers' compensation law;
2. Disability benefits law;
3. Personal Injury benefits; or
4. Pension statutes.

E. Any amount payable under this insurance shall be reduced by all sums:

1. Paid because of the "bodily injury" or "property damage" by or on behalf of persons or organizations who may be legally responsible for the "accident". This includes all sums paid under Part **A** of this policy; and
2. Paid or payable because of the "bodily injury" under any of the following or similar law;
   a. Workers' compensation law;
   b. Disability benefits law;
   c. Personal injury protection benefits; or

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d. Pension statutes.

OTHER INSURANCE

If there is other applicable similar insurance, "we" will pay only "our" share of the loss. "Our" share is the proportion that "our" limit of insurance bears to the total of all applicable limits.

1. An insurance "we" provide with respect to a "motor vehicle" "you" do not own, including any "motor vehicle" while used as a temporary substitute for "your covered auto", shall be excess over all other collectible uninsured motorists insurance. "We" will pay only the amount by which the limit of insurance for this coverage exceeds the limits of such other insurance.
2. If the coverage under this endorsement 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 insurance bears to the total of all applicable limits of insurance for coverage provided on a primary basis.
   b. On an excess basis, "we" will pay "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 insurance bears to the total of all applicable limits of insurance for coverage provided on an excess basis.

ARBITRATION

A. If "we" and a "covered person" do not agree:

1. Whether that "covered person" is legally entitled to recover damages from a party responsible for the "accident"; or
2. As to the amount of damages that may be recovered;

the matter may be settled by arbitration. However, disputes concerning coverage under this endorsement may not be arbitrated.

The "covered person" and "we" must mutually agree to arbitrate the disagreements. If the "covered person" and "we" do not agree to arbitrate, then the disagreement will be resolved in a court having competent jurisdiction.

If arbitration is used, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days as to the third arbitrator, either may request that selection be made by a judge of a court having jurisdiction. Each party will:

1. Pay the expenses it incurs; and
2. Bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the "covered person" 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 "covered person" is legally entitled to recover damages; and
2. The amount of damages.

ADDITIONAL DUTIES FOR UNINSURED MOTORISTS COVERAGE

A "covered 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.
3. Cooperate with "us" in the investigation, settlement or defense of any claim or suit. Cooperation includes, but is not limited to, identifying all parties who may be responsible for the "accident" and all insurers who may be obligated to provide coverage.

GENERAL PROVISIONS

The General Provisions of Part **F** of the policy to which this coverage is attached apply as amended below:

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A. The Legal Action Against Us provision is replaced by the following:

LEGAL ACTION AGAINST US

No lawsuit or action whatsoever or any proceeding in arbitration shall be brought against "us" for the recovery of any claim under the provisions of the Uninsured Motorists Coverage of this policy unless the "covered person" has satisfied all of the things that "covered person" is required to do under the terms and conditions of this endorsement. In addition, under Part **A.**, no lawsuit or action whatsoever or any proceeding in arbitration shall be brought against "us" until:

1. "We" agree in writing that the "covered person" has an obligation to pay; or
2. The amount of that obligation has been finally determined by judgment after trial.

Any claim or suit for Uninsured Motorists Coverage must be brought within ten (10) years of the date of the "accident" causing the "bodily injury". "Our" subrogation rights also must not be prejudiced.

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

OUR RIGHT TO RECOVER PAYMENT

If "we" make a payment and the "covered person" recovers from another party, the "covered person" shall:

1. Hold the proceeds in trust for "us"; and
2. Pay "us" back the amount "we" have paid.

The person to or for whom payment was made shall do:

1. Whatever is necessary to enable "us" to exercise "our" rights; and
2. Nothing after loss to prejudice them.

All other provisions of the policy apply.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF POLICY PROVISIONS - MISSOURI

This endorsement modifies insurance provided under the following:

PERSONAL AUTO POLICY FA4000T

1. DEFINITIONS

The following is added to the **Definitions** Section:

"Minimum Limits" refers to the following limits of insurance as required by the Missouri Financial Responsibility Law, to be provided under a policy of automobile liability insurance:

1. $25,000 for each person, subject to $50,000 for each accident with respect to "bodily injury"; and
2. $10,000 for each accident, with respect to "property damage".
3. $60,000 for each accident, with respect to "bodily injury" and "property damage".

The following is added to the definition of "Nonowned auto":

However, "nonowned auto" does not include any vehicle loaned to "you", with or without consideration, by a person, firm or corporation engaged in the "business" of selling, repairing, or servicing motor vehicles while such vehicle is being used by any "covered person":

1. For demonstration purposes.
2. As a temporary substitute for a vehicle "you" own which is out of normal use because of its:
   a. Breakdown;
   b. Repair; or
   c. Servicing.

2. PART A - LIABILITY COVERAGE

Part **A** is amended as follows:

A. The Insuring Agreement is replaced by the following:

INSURING AGREEMENT

"We" will pay damages for "bodily injury" or "property damage" for which any "covered person" 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 insurance, "we" will pay all defense costs "we" incur. "Our" duty to settle or defend ends when "our" limit of insurance for this coverage has been exhausted. "We" have no duty to defend any suit or defend any claim for "bodily injury" or "property damage" not covered under this policy.

"Covered person" as used in this Part means:

1. "You" for the ownership, maintenance or use of any auto or "trailer".
2. Any "family member":
   a. Who does not own an auto, for the maintenance or use of any auto or "trailer".
   b. Who owns an auto, but only for the use of "your covered auto".
3. Any person using "your covered auto".
4. 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.
5. 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 **(5.)** applies only if the person or organization does not own or hire the auto or "trailer".

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Within Part **A** Liability Coverage, Supplementary Payments is deleted and replaced by the following:

SUPPLEMENTARY PAYMENTS

In addition to "our" limit of insurance, "we" will pay on behalf of a "covered person":

1. Up to $500 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. All interest awarded against the "covered person" on that part of any judgment that is within the applicable limits of insurance which "we" become obligated to pay in a suit we defend that accrues after entry of the judgment and before "we" have paid, offered to pay or deposited in court the part of the judgment which we are obligated to pay.
4. Up to $250 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.
6. Prejudgment interest awarded against the "covered person" on that part of the judgment "we" become obligated to pay if "we" make an offer to pay within the applicable limit of insurance shown in the Declarations. If "we" make an offer to pay the applicable limit of insurance, "we" will not pay any prejudgment interest that is based on the period of time after the offer.

EXCLUSIONS

A. Exclusion **A.3.** is replaced by the following:

3. For "property damage" to property:

a. Rented to;

b. Used by; or

c. In the care of;

that "covered person".

This Exclusion **(A.3.)** does not apply to "property damage" to:

a. A residence or private garage; or

b. Any of the following type vehicles not owned by or furnished or available for the regular use of "you" or any "family member":

(1) Private passenger autos;

(2) "Trailers";

(3) Motor homes;

(4) Pickups, vans; or

(5) Trucks less than 26,000 pounds gross vehicle weight.

B. Exclusion **A.10.** is replaced by the following:

10. "We" do not provide Liability Coverage for "you" or any "family member" for "bodily injury" to "you" or any "family member", to the extent that the limits of insurance, for this coverage exceed the limits of insurance, required by the Missouri Financial Responsibility Law.

C. Exclusion **B.5.** is added:

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

5. "Your covered auto" while:

a. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and

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b. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".

D. Exclusion **D.** is added:

D. "We" will not pay for:

Loss to, or loss of use of, a "nonowned auto" used by:

1. "You"; or

2. Any "family member";

in connection with a personal vehicle sharing program if the provisions of such a personal vehicle sharing program preclude the recovery of such loss or loss of use, from "you" or that "family member", or if otherwise precluded by any state law.

E. The "Other Insurance" Provision is replaced by the following:

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 insurance 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 unless such vehicle is loaned to "you", with or without consideration, by a person, firm or corporation engaged in the "business" of selling, repairing, or servicing motor vehicles and such vehicle is used by any "covered person":

3. PART B – MEDICAL PAYMENTS COVERAGE

Part **B** - Medical Payments Coverage is amended as follows:

Exclusion **12.** Is added:

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

12. Sustained while "occupying" or when struck by, "your covered auto" while:

a. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and

b. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".

4. PART D - COVERAGE FOR DAMAGE TO YOUR AUTO

Part **D** - Coverage for Damage to Your Auto is amended as follows:

Exclusion **12.** Is added:

12. "We" will not pay for:

Loss to "your covered auto" which occurs while:

a. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and

b. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".

The Appraisal provision is replaced by the following:

APPRAISAL

A. If "we" and "you" do not agree on the amount of loss, then an appraisal of the loss may be made. However, both parties must agree to the appraisal. In this event, each party will select a competent appraiser. The two appraisers will select an umpire. If an umpire cannot be agreed upon, then the umpire shall be selected by a judge of a court of record in the state and county (or city if the city is not within a county) in which the property covered is located. 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

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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.

5. **PART F - GENERAL PROVISIONS**

Part **F** – General Provisions is amended as follows:

OUR RIGHT TO RECOVER PAYMENT provision is replaced with the following

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 person is entitled to do so except when "your covered auto" is being used in connection with a personal vehicle sharing program.

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.

C. Paragraph **A.** of the Our Right to Recover Payment provision does not apply to Part **B.**

D. Termination provision is replaced by the following:

TERMINATION

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 last known by "us":

   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 30 days' notice by United States Post Office certificate of mailing in all other cases.

3. After this policy is in effect for 60 days, or if this is a renewal or continuation policy, "we" may cancel for one or more of the following reasons permitted under §379.114 and §379.116.

   However, in the event more than one person is a named insured shown in the Declarations and only one named person's driver's license has been suspended or revoked, "we":

   (1) May not cancel this policy; but

   (2) May issue an exclusion providing that coverage will not be afforded to that named person under the terms of this policy while that person is operating "your covered auto" during any period of suspension or revocation.

NONRENEWAL

If "we" decide not to renew or continue this policy, "we" will mail notice by United States Post Office certificate of mailing to the named insured shown in the Declarations at the address last

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known by "us". Notice will be mailed at least 30 days before the end of the policy period. 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.

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.

OTHER TERMINATION PROVISIONS

1. 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 on a pro rata basis. 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.

E. The following provisions are added to Part **F**:

DECLARATIONS

By Acceptance of this policy, "you" agree:

1. That the statements in the Declarations are "your" agreements and representations;
2. That this policy is issued in reliance upon the truth of such representations; and
3. That this policy embodies all agreements existing between "you" and "us" or any of "our" agents relating to this insurance.

6. PART G - MISSOURI PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION COVERAGE LIMITATIONS

Subject to the provisions of the Missouri Property and Casualty Insurance Guaranty Association Act (to be referred to as the Act), if "we" are a member of the Missouri Property and Casualty Insurance Guaranty Association (to be referred to as the Association) the Association will pay claims covered under the Act if "we" become insolvent.

LIMITATIONS OF COVERAGE

The act contains various exclusions, conditions and limitations that govern a claimant's eligibility to collect payment from the Association and affect the amount of any payment. The following limitations apply subject to all other provisions of the Act:

1. Claims covered by the Association do not include a claim by or against an "covered person" of an insolvent insurer, if that "covered person" has a net worth of more than $25 million on the later of the end of the covered person's most recent fiscal year or the December thirty-first of the year next preceding the date the insurer becomes insolvent; provided that a covered person's net worth on such date shall be deemed to include the aggregate net worth of the "covered person" and all of it's affiliates as calculated on a consolidated basis.
2. Payments made by the Association for covered claims will include only that amount of each claim which is less than $300,000.
3. However, the Association will not:
   a. Pay an amount in excess of the applicable limit of insurance of the policy from which a claim arises; or

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b. Return any unearned premium to you in excess of $25,000.

The claims covered by the Association are subject to the limitations of coverage provided by the Act. These limitations have no effect on the coverage "we" will provide under this policy.

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

All other provisions of this policy apply.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UNINSURED MOTORISTS COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE SINGLE LIMIT -MISSOURI-

With respect to premium(s) shown in the declarations, this endorsement is added to Coverage Part **C** of the **PERSONAL AUTO POLICY FA4000T.**

INSURING AGREEMENT

"We" will pay compensatory damages which a "covered person" is legally entitled to recover from the owner or operator of an "uninsured motor vehicle" because of:

1. "Bodily injury":
   a. Sustained by a "covered person"; and
   b. Caused by an "accident".
2. "Property damage" caused by an "accident" if the Declarations indicates that both "bodily injury" and "property damage" Uninsured Motorists Coverage applies.

The owner's or operator's liability for these damages must arise out of the ownership, maintenance, or use of the "uninsured motor vehicle". The "covered person" shall be required to prove all elements of the "covered person's" claim that are necessary to recover from the owner or operator of the "uninsured motor vehicle".

No judgment for damages arising out of a suit brought against the owner or operator of an "uninsured motor vehicle" is binding on "us" unless "we":

1. Received reasonable notice of the pendency of the suit resulting in the judgment; and
2. Had a reasonable opportunity to protect "our" interests in the suit.

"We" will pay under this endorsement if the limits of insurance under all applicable liability bonds or policies have been exhausted by payment of judgments or settlements.

"Accident" as used in this endorsement means the operation of an "uninsured motor vehicle" resulting in "bodily injury" or "property damage.

"Covered person" as used in this endorsement means:

1. "You".
2. Any "family member" who does not own an auto.
3. Any "family member" who owns an auto, but only while "occupying" "your covered auto".
4. Any other person "occupying" "your covered auto".
5. Any person for damages that person is entitled to recover damages because of "bodily injury" to which this insurance applies sustained by a person described in **1.**, **2.**, **3.** or **4.** above.

"Motor vehicle" as used in this endorsement means:

1. A self-propelled vehicle designed for use and principally used on public roads, including an automobile, truck and motorcycle.
2. A motor home, provided the motor home is not stationary and is not being used as a temporary or permanent residence or office.
3. "Motor vehicle" does not include a trolley, streetcar, railroad engine, railroad car, motorized bicycle, golf cart, off-road recreational vehicle, snowmobile, fork lift, aircraft, watercraft, construction equipment, farm

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tractor or other vehicle designed and principally used for agricultural purposes, mobile home, vehicle traveling on treads or rails or any similar vehicle.

"Property Damage" as used in this endorsement means:

1. Injury to or destruction of "your covered auto".
2. Injury to or destruction of any property owned by a person listed in **1.** and **2.** of "covered person" while contained in "your covered auto".
3. Loss of use of damaged or destroyed property.

"We" will pay up to $15 per day, to a maximum of $450, for such loss of use.

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

1. To which no liability bond or policy applies at the time of "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 Missouri.
3. Which, with respect to damages for "bodily injury" only, is a hit-and-run vehicle and neither the operator nor owner cannot be identified. The vehicle must either:
   a. Hit "you" or any "family member", "your covered auto" or a vehicle "you" or any "family member" is "occupying"; or
   b. Cause "bodily injury" to "you" or any "family member" without hitting "you" or any "family member", "your covered auto" or a vehicle "you" or any "family member" is "occupying".

   "We" will only accept convincing evidence which may include the testimony, under oath, of a person making claim under this or similar coverage.
4. To which a 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 within two years of the date of the "accident".

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

1. Owned by or furnished or available for the regular use of "you" or that of any "family member" or any "covered person" to the extent that the limits of insurance for this coverage exceed the minimum limits of insurance required by the financial responsibility law of Missouri.
2. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer which is or becomes insolvent.
3. Operated on rails or crawler treads.
4. Designed mainly for use off public roads while not on public roads.
5. While located for use as a residence or premises.
6. For which liability coverage is afforded under this policy.

EXCLUSIONS

A. "We" do not provide Uninsured Motorists Coverage for "bodily injury" sustained by a "family member" who does not own an auto, 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 "property damage" or "bodily injury" sustained by any "covered person":

   1. If that person(s) or organization(s) legally responsible for the "accident" or the insurer or legal representative of such person(s) or organization(s) settles the "bodily injury" or "property damage" claim and such settlement prejudices "our" right to recover payment to the extent that the limits of insurance for this coverage exceed the minimum limits of insurance required by the financial responsibility law of Missouri.

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2. Using a vehicle without a reasonable belief that that "covered person" 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".

3. If the property is contained in or struck by a "motor vehicle" (other than "your covered auto") owned by "you" or any "family member".

4. In excess of the minimum limits of insurance required by the financial responsibility law of Missouri, while "occupying" "your covered auto" when it is being used as a public livery conveyance. This Exclusion **(B.4.)** does not apply to a share the expense car pool.

5. For the first $250 of the amount of "property damage" to the property of a "covered person" as the result of any one "accident". This exclusion does not apply if:

   a. "Your covered auto" is legally parked and unoccupied while involved in an "accident" with an "uninsured motor vehicle";

   b. The Declarations of this policy indicates "collision" coverage is provided for "your covered auto" and the damage to "your covered auto" exceeds $200; or

   c. "You" elect to have this loss paid under "Collision" coverage due to inadequate limits of insurance for "property damage" caused by an "uninsured motor vehicle" and the damage to "your covered auto" exceeds $200, in which case, any "Collision" deductible applicable to the damage to "your covered auto" will be waived.

C. "We" do not provide Uninsured Motorists Coverage for "bodily injury" sustained:

By any "covered person" while "occupying", or when struck by, "your covered auto" while:

a. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and

b. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".

D. 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.

3. Personal injury protection benefits; or

4. Pension statutes.

E. This coverage does not apply to pay punitive or exemplary damages.

LIMIT OF INSURANCE

A. If "bodily injury" is sustained in an "accident" by "you" or any "family member", "our" maximum limit of insurance for all damages, in any such "accident" is the sum of the limits of insurance for Uninsured Motorists Coverage shown in the Declarations applicable to each "motor vehicle". Subject to this maximum limit of insurance for all damages:

1. The most "we" will pay for "bodily injury" sustained in such "accident" by a "covered person" other than "you" or any "family member" is that "covered persons" pro-rata share of the limit shown in the Schedule or in the Declarations applicable to the vehicle that "covered person" was "occupying" at the time of the "accident"; and

2. "You" or any "family member" who sustains "bodily injury" in such "accident" will also be entitled to a pro-rata share of the limit described in Paragraph **1.** above.

A person's pro-rata share shall be the proportion that that person's damages bears to the total damages sustained by all "covered persons".

The maximum limit of insurance is the most "we" will pay regardless of the number of:

1. "Covered persons";

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2. Claims made;

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

4. Vehicles involved in the "accident".

B. If "bodily injury" is sustained by any "covered persons" other than "you" or any "family member" in an "accident" in which neither "you" nor any "family member" sustained "bodily injury", the limit of insurance shown in the Declarations for Uninsured Motorists Coverage applicable to the "your covered auto" the "covered person" was "occupying" at the time of the "accident" is "our" maximum limit of insurance for all damages resulting from any such "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".

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

1. Part **A** of this policy; or

2. Any Underinsured Motorists Coverage provided by this policy.

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

1. Workers' compensation law;

2. Disability benefits law;

3. Personal injury benefits; or

4. Pension statutes.

E. Any amount payable under this insurance shall be reduced by all sums:

1. Paid because of the "bodily injury" or "property damage" by or on behalf of persons or organizations who may be legally responsible for the "accident". This includes all sums paid under Part **A** of this policy; and

2. Paid or payable because of the "bodily injury" under any of the following or similar law;

a. Workers' compensation law;

b. Disability benefits law;

c. Personal injury protection benefits; or

d. Pension statutes.

OTHER INSURANCE

If there is other applicable similar insurance, "we" will pay only "our" share of the loss. "Our" share is the proportion that "our" limit of insurance bears to the total of all applicable limits.

1. An insurance "we" provide with respect to a "motor vehicle" "you" do not own, including any "motor vehicle" while used as a temporary substitute for "your covered auto", shall be excess over all other collectible uninsured motorists insurance. "We" will pay only the amount by which the limit of insurance for this coverage exceeds the limits of such other insurance.

2. If the coverage under this endorsement 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 insurance bears to the total of all applicable limits of insurance for coverage provided on a primary basis.

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b. On an excess basis, "we" will pay "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 insurance bears to the total of all applicable limits of insurance for coverage provided on an excess basis.

ARBITRATION

If "we" and a "covered person" do not agree:

1. Whether that "covered person" is legally entitled to recover damages from a party responsible for the "accident"; or

2. As to the amount of damages that may be recovered;

the matter may besettled by arbitration. However, disputes concerning coverage under this endorsement may not be arbitrated.

The "covered person" and "we", must mutually agree to arbitrate the disagreements. If the "covered person" and "we" do no agree to arbitrate, then the disagreement will be resolved in a court having competent jurisdiction.

If arbitration is used, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days as to the third arbitrator, either may request that selection be made by a judge of a court having jurisdiction. Each party will:

1. Pay the expenses it incurs; and

2. Bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the "covered person" 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 "covered person" is legally entitled to recover damages from a party responsible for the "accident"; and

2. The amount of damages.

ADDITIONAL DUTIES FOR UNINSURED MOTORISTS COVERAGE

A "covered 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.

3. Cooperate with "us" in the investigation, settlement or defense of any claim or suit. Cooperation includes, but is not limited to, identifying all parties who may be responsible for the "accident" and all insurers who may be obligated to provide coverage.

GENERAL PROVISIONS

The General Provisions of Part **F** of the policy to which this coverage is attached apply as amended below:

A. The Legal Action Against Us provision is replaced by the following:

LEGAL ACTION AGAINST US

No lawsuit or action whatsoever or any proceeding in arbitration shall be brought against us for the recovery of any claim under the provisions of the Uninsured Motorist Coverage of this policy unless the "covered person" has satisfied all of the things that "covered person" is required to do under the terms and conditions of this endorsement. In addition, under Part **A.**, no lawsuit or action whatsoever or any proceeding in arbitration shall be brought against "us" until:

1. "We" agree in writing that the "covered person" has an obligation to pay; or

2. The amount of that obligation has been finally determined by judgement after trial.

Any claim or suit for Uninsured Motorists Coverage must be brought within ten (10) years of the date of the "accident" causing the "bodily injury". "Our" subrogation rights also must not be prejudiced.

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

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OUR RIGHT TO RECOVER PAYMENT

If "we" make a payment and the "covered person" recovers from another party, the "covered person" shall:

1. Hold the proceeds in trust for "us"; and
2. Pay "us" back the amount "we" have paid.

The person to or for whom payment was made shall do:

1. Whatever is necessary to enable "us" to exercise "our" rights; and
2. Nothing after loss to prejudice them.

All other provisions of the policy apply.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UNDERINSURED MOTORISTS COVERAGE
SINGLE LIMIT - MISSOURI

With respect to premium(s) shown in the declarations, this endorsement is added to Coverage Part **C** of the **PERSONAL AUTO POLICY FA4000T.**

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

1. Sustained by a "covered person"; 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". The "covered person" shall be required to prove all elements of the "covered person's" claim that are necessary to recover from the owner or operator of the "underinsured motor vehicle".

"We" will pay under this coverage for "bodily injury" caused by an "accident" only if **1.** or **2.** below applies:

1. The limits of liability under all applicable bodily injury liability bonds or policies have been exhausted by payments of judgments or settlements; or
2. A tentative settlement has been made between a "covered person" and a person(s) or organization(s) who may be legally responsible for the "accident", or the insurer or legal representative of such person(s) or organization(s) and "we":
   a. Have been given prompt written notice of such settlement; and
   b. Advance payment to the "covered person" in an amount equal to the tentative settlement within 30 days after receipt of notification.

Any judgment for damages arising out of a suit brought without "our" written consent to both the suit and the judgment is not binding on "us".

"Covered person" as used in this endorsement means:

1. "You" or any family member.
2. Any other person "occupying" "your covered auto".
3. Any "covered person" as described in **1.** or **2.** above for damages that "covered person" is entitled to recover because of "bodily injury" to which this coverage applies.

"Motor Vehicle" as used in this endorsement means:

1. A self-propelled vehicle designed for use and principally used on public roads, including an automobile, truck and motorcycle.
2. A motor home, provided the motor home is not stationary and is not being used as a temporary or permanent residence or office.
3. "Motor vehicle" does not include a trolley, streetcar, railroad engine, railroad car, motorized bicycle, golf cart, off-road recreational vehicle, snowmobile, fork lift, aircraft, watercraft, construction equipment, farm tractor or other vehicle designed and principally used for agricultural purposes, mobile home, vehicle traveling on treads or rails or any similar vehicle.

"Underinsured Motor Vehicle" means a land "motor vehicle" or "trailer" for which the limits of coverage available for payment to the "covered person" under all liability bonds or policies covering person(s) or organization(s) liable to the "covered person" at the time of the "accident" are not enough to pay the full amount the "covered person" is legally entitled to recover as damages.

However, "underinsured motor vehicle" does not include any "motor 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 minimum limit for bodily injury liability specified by the financial responsibility law of the state in which "your covered auto" is principally garaged.
2. Owned by or furnished or available for "your" the regular use of "you" or any "family member" or any other "covered person".

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3. Operated on rails or crawler treads.

4. Designed mainly for use off public roads while not upon public roads.

5. While located for use as a residence or premises.

6. Owned or operated by a person qualifying as a self-insurer under any applicable motor vehicle law.

7. 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.

8. For which liability coverage is afforded under this policy.

EXCLUSIONS

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

   1. By a "covered person" while "occupying", or when struck by, any "motor vehicle" owned by that "covered person" which is not specifically identified in this policy, or is not a newly acquired or replacement "motor vehicle" 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 "covered person":

   1. If that "covered person" settles the "bodily injury" claim with the person(s) or organization(s) legally responsible for the "accident" or the insurer or legal representative of such person(s) or organization(s) without "our" written consent and such settlement prejudices "our" right to recover.

   2. When "your covered auto" is being used to carry persons or property for a fee. This exclusion **(B.2.)** does not apply to a share-the-expense car pool.

   3. While operating or "occupying" a "motor vehicle" without a reasonable belief that that "covered person" is entitled to do so. Under no circumstances will a person whose license has been suspended, revoked or never issued be held to have a reasonable belief that that "covered person" is entitled to operate a "motor vehicle". This exclusion **(B.3.)** does not apply to a "family member" using "your covered auto" which is owned by "you".

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

   By any "covered person" while "occupying", or when struck by, "your covered auto" while:

   1. Enrolled in a personal vehicle sharing program under the terms of a written agreement expressed in any medium, including, but not limited to, electronic or paper; and

   2. Being used in connection with such personal vehicle sharing program by anyone other than "you" or any "family member".

D. This coverage shall not apply in excess of the limits required by the Financial Responsibility Law to benefit any insurer or self insurer, directly or indirectly, under any of the following or similar law:

   1. Workers' compensation law;

   2. Disability benefits law;

   3. Personal injury protection benefits; or

   4. Pension statutes.

E. This Underinsured Motorists Coverage does not apply to pay punitive or exemplary damages.

LIMIT OF INSURANCE

A. The limit of insurance shown in the Declarations for Underinsured Motorists Coverage is "our" maximum limit of insurance prescribed by Missouri statute 379.204 for all damages because of "bodily injury" resulting from any one "accident". This is the most "we" will pay regardless of the number of:

   1. "Covered persons":

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2. Claims made;

3. Vehicles or premiums shown in the Declarations; or

4. Vehicles involved in the "accident".

OTHER INSURANCE

If there is other applicable Underinsured Motorists Coverage, "we" will pay only "our" share of the loss. "Our" share is the proportion that "our" limit of insurance bears to the total of all applicable limits.

If there is other applicable Underinsured Motorists Coverage available under one or more policies or provisions of coverage:

1. The maximum recovery under all the policies combined may equal but not exceed the highest applicable limit for any one "motor vehicle" under any policy providing coverage on either a primary or excess basis.

2. Subject to all other provisions of this policy, including but not limited to:

   a. Exclusion **A.** of this endorsement;

   b. Paragraph **A.** of the **Limit Of Insurance** provision of this endorsement;

   c. Paragraph **1.** of the **Other Insurance** provision of this endorsement; and

   d. The **Two Or More Auto Policies** provision of this policy;

   any insurance "we" provide with respect to a "motor vehicle" "you" do not own, including any "motor vehicle" while used as a temporary substitute for "your covered auto", shall be excess over any collectible underinsured motorists insurance providing such coverage on a primary basis. "We" will pay only the amount by which the limit of insurance for this coverage exceeds the limits of such other insurance.

3. If the coverage under this endorsement 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 insurance bears to the total of all applicable limits of insurance for coverage provided on a primary basis.

   b. On an excess basis, "we" will pay "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 insurance bears to the total of all applicable limits of insurance for coverage provided on an excess basis.

ARBITRATION

If "we" and a "covered person" do not agree:

1. Whether that "covered person" is legally entitled to recover damages from a party responsible for the "accident"; or

2. As to the amount of damages that may be recovered;

The matter may be settled by arbitration. However, disputes concerning coverage under this endorsement may not be arbitrated.

The "covered person" and "we" must mutually agree to arbitrate the disagreements. If the "covered person" and "we" do no agree to arbitrate, then the disagreement will be resolved in a court having competent jurisdiction.

If arbitration is used, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days as to the third arbitrator, either may request that selection be made by a judge of a court having jurisdiction. Each party will:

1. Pay the expenses it incurs; and

2. Bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the "covered person" 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 "covered person" is legally entitled to recover damages from a party responsible for the "accident"; and

2. The amount of damages.

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ADDITIONAL DUTIES FOR UNDERINSURED MOTORISTS COVERAGE

A "covered person" seeking Underinsured Motorists Coverage must also:

1. Promptly send "us" copies of legal papers if a suit is brought.
2. Promptly notify "us" in writing of a tentative settlement between a "covered person" and a person(s) or organization(s) who may be legally responsible for the "accident", or the insurer or legal representative of such person(s) or organization(s) and allow "us" 30 days to advance payment to that "covered person" in an amount equal to the tentative settlement, to preserve "our" rights against the person(s) or organization(s) who may be legally responsible for the "accident", or the insurer or legal representative of such person(s) or organization(s).
3. Cooperate with "us" in the investigation, settlement or defense of any claim or suit. Cooperation includes, but is not limited to, identifying all parties who may be responsible for the "accident" and all insurers who may be obligated to provide coverage.

LEGAL ACTION AGAINST US

No lawsuit or action whatsoever or any proceeding in arbitration shall be brought against "us" for the recovery of any claim under the provisions of the Underinsured Motorists Coverage of this policy unless the "covered person" has satisfied all of the things that "covered person" is required to do under the terms and conditions of this policy. In addition, under Part **A.**, no lawsuit or action whatsoever or any proceeding in arbitration shall be brought against "us" until:

1. "We" agree in writing that the "covered person" has an obligation to pay; or
2. The amount of that obligation has been finally determined by judgment after trial.

Any claim or suit for Underinsured Motorists Coverage must be brought within ten (10) years of the date of the "accident" causing the "bodily injury". "Our" subrogation rights also must not be prejudiced.

OUR RIGHT TO RECOVER PAYMENT

If "we" make a payment and the "covered person" recovers from another party, the "covered person" shall:

1. Hold the proceeds in trust for "us"; and
2. Pay "us" back the amount "we" have paid.

The person to or for whom payment was made shall do:

1. Whatever is necessary to enable "us" to exercise "our" rights; and
2. Nothing after loss to prejudice them.

However, "our" right to recover payment shall not apply if "we":

1. Have been given prompt written notice of a tentative settlement between a "covered person" and a person(s) or organization(s) who may be legally responsible for the "accident", or the insurer or legal representative of such person(s) or organization(s); and
2. Fail to advance payment to the "covered person" in an amount equal to the tentative settlement within 30 days after receipt of the notification.

If "we" advance payment to the "covered person" in an amount equal to the tentative settlement within 30 days after receipt of the notification:

1. That payment will be separate from any amount the "covered person" is entitled to recover under the provisions of this Uninsured Motorist Coverage; and
2. "We" also have a right to recover the advanced payment.

All other provisions of this policy apply.

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The Cincinnati Insurance Company

AUTO
DECLARATIONS

DDA (1/14)

By: _____

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EXHIBIT

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