

IN THE MATTER OF
LIBERTY MUTUAL INSURANCE COMPANY
REGULATORY SETTLEMENT AGREEMENT
ON REPORTING MOTOR VEHICLE AT-FAULT ACCIDENT DETERMINATIONS
TO THE MERIT RATING BOARD AND AT-FAULT OPERATORS

This Regulatory Settlement Agreement ("RSA") is entered into as of this 30th day of August 2024 by and between Liberty Mutual Insurance Company (the "Company") and the Commissioner of the Massachusetts Division of Insurance ("the Division").

A. Recitals

1. The Company maintains its home office in Boston, Massachusetts and has been a licensed insurance company in Massachusetts at all relevant times. On November 8, 2021, pursuant to authority in Massachusetts General Laws ("M.G.L.") Chapter 175, Section 4, the Division called a comprehensive market conduct examination ("examination") of the Company. The examination report is being issued concurrently with the execution of this RSA. In accordance with 211 CMR 134.00, the Company is required to report motor vehicle at-fault accident determinations, in which the Company has determined that fault is greater than 50% under 211 CMR 74.04, to the Merit Rating Board ("MRB") and to vehicle operators determined to be at-fault in motor vehicle accidents ("At-fault Operators") along with notice of their rights to appeal the at-fault accident determinations to the Massachusetts Board of Appeals ("BOA") or a court of competent jurisdiction following M.G.L. Chapter 175E, Section 7A. If the Company's at-fault accident determination is vacated by the Massachusetts BOA or a court of competent jurisdiction, the At-fault Operator's insurer is required to refund any additional premium collected as a result of the Company's at-fault accident determination, and the

Company must report such vacated at-fault accident determinations to the same consumer reporting agencies to whom the original at-fault accident determinations were reported in accordance with M.G.L. Chapter 175E, Section 7A.

2. During the examination, the Division assessed compliance with a previous RSA ("2019 RSA"), issued with the previous examination report dated December 18, 2019 related to reporting of at-fault accident determinations to the MRB and At-fault Operators, along with notice of their appeal rights, along with a corrective action plan, payment of a fine, and a re-examination within twenty-four (24) months of the execution of the 2019 RSA.

3. Examination testing indicated the following findings during testing of 109 motor vehicle claims:

a. For five at-fault accident determinations, the Company failed to provide a "Notice of At-fault Accident Determination" to At-fault Operators, operators along with their rights to appeal the at-fault accident determinations to the BOA, as required by 211 CMR 134.00,

b. For 12 at-fault accident determinations, the date of the notice to the MRB could not be determined for timely reporting, as required by 211 CMR 134.00,

c. For nine at-fault accident determinations, the Company failed to provide a "Notice of At-fault Accident Determination" to At-fault Operators, operators along with their rights to appeal the at-fault accident determinations to the BOA within 20 business days of reporting to the MRB, as required by 211 CMR 134.00,

d. For one at-fault accident determination, the Company failed to provide a timely "Notice of At-fault Accident Determination" to the At-fault Operator, along with the operator's right to appeal the at-fault accident determination to the BOA and

failed to provide a timely notice to the MRB, within 20 business days of determining fault, as required by 211 CMR 134.00, and

e. For four comprehensive claims, the Company failed to provide notice to the MRB, as required by 211 CMR 134.00,

f. Thus, for 26 automobile claims, there were one or more failures (cumulative total of 32 failures¹) related to providing a "Notice of At-fault Accident Determination" to At-fault Operators and/or reporting at-fault and comprehensive claims to the MRB as required by 211 CMR 134.00, resulting in an error rate of 23.9 percent, which is not in compliance with the 3 percent allowable error rate in the 2019 RSA. The Division acknowledges that the pandemic's impacts on the Company's operations and staffing was likely a factor in the Company's non-compliance with the RSA.

4. During the examination, the Division engaged in discussions with Company management concerning the matters in this RSA. The Company agreed to the corrective actions set forth in Section B, which seeks to require business practices and monitoring efforts to ensure that each At-fault Operator receives a "Notice of At-fault Accident Determination", along with rights to appeal the at-fault accident determinations to the BOA, and that at-fault accident determinations and comprehensive claims are reported to the MRB, in accordance with 211 CMR 134.00.

¹ Six of the claims had two errors. For five of these six claims with at-fault accident determinations, the Company failed to provide a "Notice of At-fault Accident Determination" to At-fault Operators, along with their rights to appeal the at-fault accident determinations to the BOA, as required by 211 CMR 134.00, and also failed to provide notice to the MRB, as required by 211 CMR 134.00. The two errors in the sixth claim are reflected in 3.d.

B. Plan of Corrective Action

1. The Company shall review its policies and procedures for issuance of the "Notice of At-fault Accident Determination" to At-fault Operators, along with rights to appeal the at-fault accident determinations to the BOA, and for reporting of such at-fault accident determinations and comprehensive claims to the MRB. Further, as needed, the Company shall make appropriate procedures and monitoring enhancements.

2. For the five at-fault accident determinations where the Company failed to provide a "Notice of At-fault Accident Determination" to At-fault Operators, along with their rights to appeal the at-fault accident determinations to the BOA, the Company shall provide such a notice to the At-fault Operators within 30 days, and also indicate that the Company will reimburse the At-fault Operator for the \$50 appeal fee, if he or she elects to appeal the Company's at-fault determination.

3. The Company shall provide guidance to staff on these procedures and monitoring enhancements. Additionally, the Company will conduct an independent compliance audit of the effectiveness of these procedures and monitoring enhancements by September 30, 2024, and provide the audit report to the Division.

C. Other Provisions

1. The Division will monitor the Company's compliance with this RSA. The Division will conduct a re-examination of the issues addressed under this RSA and any other issues identified in the examination within 24 months after the execution of this RSA. The Company shall be deemed in compliance with this RSA unless the re-examination testing conducted within the aforementioned 24-month period results in an error rate that exceeds three percent. The examiners will determine the three percent error rate through the use of a

credible statistical sample based on guidance contained in the current version of the *NAIC Market Regulation Handbook*.

2. The Division's monitoring of the Company for compliance with the terms of this RSA constitutes an ongoing examination. In accordance with M.G.L. Chapter 175, Section 4, the Division shall afford confidential treatment to the workpapers, recorded information, or documents provided by the Company as part of the ongoing examination.

3. All Division monitoring and examination costs, including interim reviews and testing, shall be borne by the Company following M.G.L. Chapter 175, Section 4.

4. The Company does not admit to any wrongdoing or violation of law.

5. The Company agrees that all amounts paid or incurred, in complying with the terms and conditions of this RSA shall not be included or recoverable as expenses in any rate filing submitted to the Division or any other insurance regulatory agency, and that the Company will comply with Federal and state tax laws and regulations related to the deductibility of such amounts paid or incurred.

6. The Parties may execute this RSA in counterparts. A true and correct copy of the RSA shall be enforceable the same as the original RSA. The provisions of this RSA may be amended, modified, or expanded solely in writing by joint consent of the Division and the Company.

7. This RSA shall be governed by and interpreted according to the laws of the Commonwealth of Massachusetts.

8. This RSA represents the entire understanding between the parties hereto for the subject matter hereof and supersedes all prior understandings, agreements, plans, and negotiations, whether written or oral, concerning the subject matter hereof.

9. The Division releases and discharges the Company with respect to all fines, claims, sanctions, or redress that the Division could have pursued due to the Company's past conduct addressed by the Plan of Corrective Action other than as set forth in this RSA. Notwithstanding the preceding, the Division's authority to investigate any assertion of the Company's noncompliance with laws or regulations applicable to matters not within the scope of this RSA, and to act thereon, shall not be limited in any way by this RSA.

10. The Division retains the right to impose any regulatory penalty otherwise available by law, including fines, with respect to the Company's willful violation of this RSA or other violation of law.

11. Except as set forth herein, nothing in this RSA shall be construed to waive or limit the right of the Division to seek such other remedies, or waive otherwise, or limit the continuing regulation of the Company in the normal course.

12. The parties hereto agree that time shall be of the essence with respect to the performance of this RSA.

D. Remedies

1. Within 15 days of the execution of this RSA, the Company shall pay a fine of \$38,650 to the Division. Also, after completion of the re-examination conducted within 24 months of the execution of this RSA, as referenced in Section C.1, the Commissioner may require an additional fine of up to \$38,650 if the error rate exceeds the maximum error rate in Section C.1.

2. The Company shall be entitled to review and comment on any re-examination results in accordance with the current version of the *NAIC Market Regulation Handbook*.

LIBERTY MUTUAL INSURANCE COMPANY

Adam J. Markay

BY: _____
August 30, 2024

MASSACHUSETTS DIVISION OF INSURANCE

BY: *Kevin P. Beagan*

Kevin P. Beagan, Acting Commissioner

September 4, 2024