



## CANCELLATION PROVISIONS (New York)

Refer to Supplementary Declarations if information is not shown on this form.

We provide coverage under this endorsement subject to the *terms* contained in the *Business Automobile* Provisions.

### AGREEMENT.

The cancellation provisions that follow apply when the covered *business automobile* is licensed or principally garaged in New York State.

### DEFINITIONS.

(a) Definitions, as used in this section:

- (1) **Covered policy** means a policy of commercial risk insurance, professional liability insurance or public entity insurance, and shall include any contract, certificate or other evidence of such insurance.
- (2) **Required policy period** means a period of one year from the date as of which a covered policy is renewed or first issued.
- (3) **Nonpayment of premium** means the failure of the named **insured** to discharge any obligation in connection with the payment of premiums on a policy of insurance or any installment of such premium, whether the premium is payable directly to the **insurer** or its agent, or indirectly under any premium finance plan or extension of credit. Payment to the **insurer**, or to an agent or broker authorized to receive such payment, shall be timely for the purpose of this section if made within fifteen days after the mailing to the **insured** of a notice of cancellation for **nonpayment of premium**.
- (4) **Renewal or to renew** means the issuance or offer to issue by an **insurer** of a policy superseding a policy previously issued and delivered by the same **insurer**, or another **insurer** under common control or the issuance or delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than one year shall, for the purpose of this section, be considered as if written for a policy period or term of one year, and any policy with no fixed expiration date shall, for the purpose of this section, be considered as if written for successive policy periods or terms of one year.
- (5) **Administrative suspension** means a temporary suspension of a driver's license pending a hearing, prosecution or investigation, or an indefinite suspension of a driver's license because of the failure of the person suspended to perform an act, which suspension will be terminated by the performance of the act by the person suspended.
- (6) **Renewal date** means the date specified in a conditional renewal notice, renewal certificate or in the renewal policy itself, for coverage under a renewal policy to take effect.

### CANCELLATION PROVISIONS

- (a) Cancellation by **you-you** may cancel this policy at any time by giving **us** written notice or returning the policy to **us** and stating when thereafter the cancellation is to be effective.
- (b) During the first sixty days a **covered policy** is initially in effect, except for the bases for cancellation set forth in paragraph one, two or three of subsection (c) of this section, no cancellation shall become effective until twenty days after written notice is mailed or delivered to the first-named **insured** at the mailing address shown in the policy and to such **insured's** authorized agent or broker.
- (c) After a **covered policy** has been in effect for sixty days unless cancelled pursuant to subsection (b) of this section, or on or after the effective date if such policy is a **renewal**, no notice of cancellation shall become effective until fifteen days after written notice is mailed or delivered to the first-named **insured** and to such **insured's** authorized agent or broker, and such cancellation is based on one or more of the following:
  - (1) With respect to **covered policies**:
    - (A) nonpayment of premium;
    - (B) conviction of a crime arising out of acts increasing the hazard insured against;
    - (C) discovery of fraud or material misrepresentation in the obtaining of the policy or in the presentation of a claim thereunder;

- (D) after issuance of the policy or after the last **renewal date**, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against, and which occurred subsequent to inception of the current policy period;
  - (E) material physical change in the property insured, occurring after issuance or last annual **renewal** anniversary date of the policy, which results in the property becoming uninsurable in accordance with the **insurer's** objective, uniformly applied underwriting standards in effect at the time the policy was issued or last **renewed**; or material change in the nature or extent of the risk, occurring after issuance or last annual **renewal** anniversary date of the policy, which causes the risk of **loss** to be substantially and materially increased beyond that contemplated at the time the policy was issued or last **renewed**;
  - (F) a determination by the superintendent that continuation of the present premium volume of the **insurer** would jeopardize that **insurer's** solvency or be hazardous to the interests of policyholders of the **insurer**, its creditors or the public;
  - (G) a determination by the superintendent that the continuation of the policy would violate, or would place the **insurer** in violation of, any provision of this chapter; or
  - (H) where the **insurer** has reason to believe, in good faith and with sufficient cause, that there is a probable risk or danger that the **insured** will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds, provided, however, that:
    - (i) a notice of cancellation on this ground shall inform the **insured** in plain language that the **insured** must act within ten days if review by the department of the ground for cancellation is desired pursuant to item (iii) of this subparagraph (H);
    - (ii) notice of cancellation on this ground shall be provided simultaneously by the **insurer** to the department; and
    - (iii) upon written request of the **insured** made to the department within ten days from the **insured's** receipt of notice of cancellation on this ground, the department shall undertake a review of the ground for cancellation to determine whether or not the **insurer** has satisfied the criteria for cancellation specified in this subparagraph; if after such review the department finds no sufficient cause for cancellation on this ground, the notice of cancellation on this ground shall be deemed null and void.
- (2) With respect to that portion of a **covered policy** providing **motor vehicle** coverage, in addition to the basis for cancellation set forth in paragraph one of this subsection, suspension or revocation during the **required policy period** of the driver's license of any person who continues to operate a **motor vehicle** insured under the policy, other than a suspension issued pursuant to subdivision one of section five hundred ten-b of the vehicle and traffic law or one or more **administrative suspensions** arising from the same incident which has or have been terminated prior to the effective date of cancellation.
- (3) Written notice of cancellation in accordance with this subsection shall be mailed or delivered to the first-named **insured**, at the address shown on the policy, and to the **insured's** authorized agent or broker.
- (d)(1) After a covered policy has been in effect for sixty days, or on and after the effective date if such policy is a **renewal**, no premium increase for the term of the policy shall be made to become effective unless due to and commensurate with insured value added, subsequent to issuance or the last renewal date, pursuant to the policy or at the **insured's** request or, in lieu of cancellation, where such increase is based upon one or more of the grounds for cancellation set forth in subparagraph (D) or (E) of paragraph one of subsection (c) of this section.
- (2) No **covered policy** which provides for a policy term of less than one year may be issued, or issued for delivery, in this state, except:
- (A) a policy issued to an **insured** for a seasonal purpose;
  - (B) a policy issued to cover a specific event or particular project that will be performed in less than one year;
  - (C) a new policy where the specific term is made to coincide with the term of an **insured's** already existing policy with the same **insurer**, with any **insurer** at the **insured's** written request or, in the case of an excess liability policy, with different **insurers**; or
  - (D) a for-hire vehicle policy whose expiration date is common to all other policies issued by an **insurer**; in any of which events the first policy period may be for a period of less than one year with subsequent renewals requiring at least a one year policy period, and any such policies issued since the effective date of this section may be amended to conform to a common expiration date.
- (e)(1) A covered policy shall remain in full force and effect pursuant to the same **terms**, conditions and rates unless written notice is mailed or delivered by the insurer to the first-named **insured**, at the address shown on the policy, and to such **insured's** authorized agent or broker, indicating the insurer's intention:
- (A) not **to renew** such policy; or

- (B) to condition its **renewal** upon change of limits, change in type of coverage, reduction of coverage, increased deductible or addition of exclusion, or upon increased premiums in excess of ten percent (exclusive of any premium increase generated as a result of increased exposure units, pursuant to subsection (d) of this section, or as a result of experience rating, loss rating, retrospective rating or audit), except that with respect to an excess liability policy, the **insurer** may also, consistent with regulations promulgated by the superintendent, condition its **renewal** upon requirements relating to the underlying coverage, in which event the conditional **renewal** notice shall be treated as an effective notice of nonrenewal if such requirements are not satisfied as of the later of the expiration date of the policy or sixty days after mailing or delivery of such notice; or
- (C) that the policy will not be **renewed** or will not be **renewed** upon the same **terms**, conditions or rates; such alternative **renewal** notice must be mailed or delivered on a timely basis and advise the **insured** that a second notice shall be mailed or delivered at a later date indicating the **insurer's** intention as specified in subparagraph (A) or (B) of this paragraph and that coverage shall continue on the same **terms**, conditions and rates as the expiring policy, until the later of the expiration date or sixty days after the second notice is mailed or delivered; such alternative **renewal** notice also shall advise the **insured** of the availability of **loss** information pursuant to subsection (g) of this section and, upon written request, the **insurer** shall furnish such **loss** information within twenty days consistent with the provisions of such subsection.
- (2) A nonrenewal notice as specified in subparagraph (A), a conditional **renewal** notice as specified in subparagraph (B), and the second notice described in subparagraph (C) of paragraph one of this subsection shall contain the specific reason or reasons for nonrenewal or conditional **renewal**, set forth the amount of any premium increase (or, where such amount cannot reasonably be determined as of the time the notice is provided, a reasonable estimate of the premium increase based upon the information available to the **insurer** at that time), and describe in plain and concise terms the nature of any other proposed changes specified in paragraph one of this subsection. The superintendent shall by regulation specify the permissible range of such estimate (which shall not exceed five percent of the actual amount) and the permissible methods by which an **insurer** may satisfy the notice requirements of this section.
- (3) The notice required by paragraph one of this subsection shall be mailed or delivered at least sixty, but not more than one hundred twenty, days in advance of the expiration date of the policy.
- (4) Paragraphs one, two and three of this subsection shall not apply when the named **insured**, an agent or broker authorized by the named **insured**, or another **insurer** of the named **insured** has mailed or delivered written notice that the policy has been replaced or is no longer desired.
- (5) (A) If the **insurer** employs an alternative **renewal** notice as authorized by subparagraph (C) of paragraph one of this subsection, the **insurer** shall provide coverage on the same **terms**, conditions, and rates as the expiring policy, until the later of the expiration date or sixty days after the mailing or delivery of the second notice described in such subparagraph, except to the extent that, prior thereto, the **insured** has replaced the coverage or elects to cancel, in which event such cancellation shall be on a pro rata premium basis.
- (B) In the event that a late conditional **renewal** notice or a late nonrenewal notice is provided by the insurer prior to the expiration date of the policy, coverage shall remain in effect, at the same **terms** and conditions of the expiring policy and at the lower of the current rates or the prior period's rates, until sixty days after such notice is mailed or delivered, except to the extent that, prior thereto, the **insured** has replaced the coverage or elects to cancel, in which event such cancellation shall be on a pro rata premium basis; provided, however, that if the **insured** elects **to renew** on the basis of the conditional **renewal** notice, then such **terms**, conditions and rates shall govern the policy upon expiration of such sixty day period unless such notice was provided at least thirty days prior to the expiration date of the policy, in which event the **terms**, conditions and rates set forth in the conditional **renewal** notice shall apply as of the **renewal** date.
- (C) (i) In the event that a late conditional **renewal** notice or a late nonrenewal notice is provided by the **insurer** on or after the expiration date of the policy, coverage shall remain in effect on the same **terms** and conditions of the expiring policy for another **required policy period**, and at the lower of the current rates or the prior period's rates unless the **insured** during the additional **required policy period** has replaced the coverage or elects to cancel, in which event such cancellation shall be on a pro rata premium basis.
- (ii) Every notice mailed or delivered pursuant to this subsection shall advise the **insured** of the **insured's** rights to coverage and the duration thereof.
- (6) Paragraph five of this subsection shall not create a new annual aggregate liability limit (if any) for the **covered policy**, except that the annual aggregate limit of the expiring policy shall be increased in proportion to the policy

extension pursuant to such paragraph five; provided, however, that if the *insured* elects to accept the *terms*, conditions and rates of the conditional *renewal* notice pursuant to subparagraph (B) of paragraph four of this subsection, a new annual aggregate limitation (if any) shall become effective as of the inception date of the *renewal*, subject to regulations promulgated by the superintendent.

- (7) Each *insurer* subject to this section shall adopt and implement reasonable standards and procedures to ensure compliance with the provisions of subparagraphs (A), (B) and (C) of paragraph one and paragraphs two and three of this subsection. Each such *insurer* shall maintain a written or electronic record of any notice not in compliance with such provisions. Such record shall indicate the expiration date of the policy, the date notice should have been sent, the date when notice was sent, the policy number, and the name and address of the *insured*. Such records shall be available for inspection upon request by the superintendent.
- (8) No *insurer* may issue blanket or mass nonrenewal notices for any market, except upon submission to the superintendent, at least forty-five days in advance of mailing or delivery of such notices, of a plan for orderly withdrawal that describes the proposed nonrenewals, states the basis for such nonrenewals, and identifies any measures such *insurer* intends to take in order to minimize market disruption.
- (f) If an *insurer* provides the notice described in paragraphs one, two and three of subsection (e) of this section, and thereafter the *insurer* extends the policy for ninety days or less, an additional notice of nonrenewal is not required with respect to the extension.
- (g) (1) Every notice mailed or delivered by an *insurer* pursuant to this section shall advise the first-named *insured* and such *insured's* authorized agent or broker of the availability of *loss* information consistent with paragraph two of this subsection.
- (2) Upon written request by the first-named *insured* or such *insured's* authorized agent or broker, the *insurer* shall mail or deliver the following loss information covering a period of years specified by the superintendent by regulation or the period of time coverage has been provided by the *insurer*, whichever is less, within twenty days of such request:
- (A) Information on closed claims, including date and description of occurrence, and any payments;
- (B) Information on open claims, including date and description of occurrence, and amounts of any payments; and
- (C) Information on notice of any occurrences, including date and description of occurrence.
- (3) The *insurer* may charge a reasonable fee as determined by the superintendent only for such information provided upon request, but not for such information (even in the absence of a request therefor) required to be provided.
- (4) For purposes of this subsection, the term first-named *insured* shall include an individual certificate holder under a property/casualty group policy with respect to such certificate holder's *loss* information.
- (h) Every notice of cancellation issued pursuant to this section shall specify the grounds for cancellation and shall contain where applicable a reference to the pertinent paragraph or subparagraph of subsection (c) of this section. Every notice of nonrenewal issued pursuant to this section shall set forth or be accompanied by the reason for nonrenewal, and any such stated reason shall be valid and effective unless such reason violates this chapter or any other state or federal law.
- (i) No cancellation, conditional *renewal* or nonrenewal notice that fails to include a provision required by this section shall be an effective notice for purposes of this section.
- (i) Nothing in this section shall be construed to prohibit an *insurer* from providing *terms* more favorable to an *insured* or other party in interest with regard to cancellation, nonrenewal or conditional *renewal*; nor shall anything herein be construed to limit the grounds for which an *insurer* may lawfully rescind or suspend a policy or decline to pay a claim under a policy.

## **REFUND OF PREMIUM.**

Payment or tender of unearned premium is not a condition of cancellation. If unearned premium is not refunded with the cancellation notice, it will be sent to *you* within a reasonable time.