

9610A NJ 0107



NEW JERSEY

STANDARD AUTO POLICY



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version 3.0

PROGRESSIVE[®]
DRIVE[®] Insurance

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NEW JERSEY STANDARD AUTO POLICY

INSURING AGREEMENT

In return for **you** payment of the premium, **we** agree to insure **you** subject to all the terms, conditions, and limitations of this policy. **We** will insure **you** for the coverages and the limits of liability shown on this policy's **declarations page**. **Your** policy consists of the policy contract, the **declarations page**, and all endorsements to this policy.

GENERAL DEFINITIONS

The following definitions apply throughout the policy. Defined terms are printed in boldface type and have the same meaning whether in the singular, plural, or any other form.

1. **"Additional auto"** means an **auto you** become the owner of during the policy period that does not permanently replace an **auto** shown on the **declarations page** if:
 - a. **we** insure all other **autos you** own;
 - b. the **additional auto** is not covered by any other insurance policy;
 - c. **you** notify **us** within 30 days of becoming the owner of the **additional auto**; and
 - d. **you** pay any additional premium due.

An **additional auto** will have the broadest coverage **we** provide for any **auto** shown on the **declarations page**. If **you** ask **us** to insure an **additional auto** more than 30 days after **you** become the owner, any coverage **we** provide will begin at the time **you** request coverage. However, **we** will not provide any coverage under Part IV - Damage To A Vehicle until **you** ask **us** to add such coverage for the **additional auto**, and provided **you** comply with the New Jersey Mandatory Inspection provisions appearing in Part VII - General Provisions.

2. **"Auto"** means a land motor vehicle:
 - a. of the private passenger, pickup body, or cargo van type;
 - b. designed for operation principally upon public roads;
 - c. with at least four wheels; and
 - d. with a gross vehicle weight rating of 12,000 pounds or less, according to the manufacturer's specifications.

However, **"auto"** does not include step-vans, parcel delivery vans, or cargo cut-away vans or other vans with cabs separate from the cargo area.

3. **"Auto business"** means the business of selling, leasing, repairing, parking, storing, servicing, delivering, or testing vehicles.
4. **"Bodily injury"** means bodily harm, sickness, or disease, including death that results from bodily harm, sickness, or disease.
5. **"Covered auto"** means:
 - a. any **auto** or **trailer** shown on the **declarations page** for the coverages applicable to that **auto** or **trailer**;
 - b. any **additional auto**;
 - c. any **replacement auto**; or
 - d. a **trailer** owned by **you**.

6. **“Declarations page”** means the document showing **your** coverages, limits of liability, **covered autos**, premium, and other policy-related information. The **declarations page** may also be referred to as the Auto Insurance Coverage Summary.
7. **“Occupying”** means using, entering into, exiting from, getting on, or getting off of.
8. **“Relative”** means a person residing in the same household as **you**, and related to **you** by blood, marriage, civil union pursuant to New Jersey law, or adoption, and includes a ward, stepchild, or foster child. **Your** unmarried dependent children temporarily away from home will qualify as a **relative** if they intend to continue to reside in **your** household.
9. **“Replacement auto”** means an **auto** that permanently replaces an **auto** shown on the **declarations page**. A **replacement auto** will have the same coverage as the **auto** it replaces if the **replacement auto** is not covered by any other insurance policy. However, if **you** want to continue any coverage **you** had on the replaced **auto** under Part IV - Damage To A Vehicle:
 - (i) **you** must ask **us** to insure the **replacement auto** within three days after **you** become the owner, including the day the **auto** was acquired and excluding Saturdays, Sundays, and New Jersey legal holidays;
 - (ii) the **auto** being replaced must have been continuously covered for Comprehensive Coverage and Collision Coverage for at least 12 months prior to the date of replacement; and
 - (iii) **you** must comply with the New Jersey Mandatory Inspection provisions appearing in Part VII - General Provisions.If the **auto** being replaced did not continuously have Comprehensive Coverage and Collision Coverage for the preceding 12 months, **you** may add coverage for the **replacement auto**. However, if **you** add coverage under Part IV - Damage To A Vehicle, it will not become effective until after **you** ask **us** to add the coverage and **you** comply with the New Jersey Mandatory Inspection provisions appearing in Part VII - General Provisions. If **you** add any other coverage to this policy or increase **your** limits, it will not become effective until after **you** ask **us** to add the coverage or increase **your** limits.
10. **“Trailer”** means a non-motorized trailer, including a farm wagon or farm implement, designed to be towed on public roads by an **auto** and not being used:
 - a. for commercial purposes;
 - b. as an office, store, or for display purposes; or
 - c. as a passenger conveyance.
11. **“We”, “us”, and “our”** mean the underwriting company providing the insurance, as shown on the **declarations page**.
12. **“You” and “your”** mean:
 - a. a person shown as a named insured on the **declarations page**; and
 - b. the following person, if residing in the same household as a named insured:
 - (i) the spouse of a named insured; or
 - (ii) a person who has entered into a civil union with a named insured pursuant to New Jersey law.

Additionally, **“you”** and **“your”** include any spouse that ceases to reside in the named insured’s household during the policy period, until the end of that policy period.

PART I - LIABILITY TO OTHERS

INSURING AGREEMENT

If **you** pay the premium for this coverage, **we** will pay damages for **bodily injury** and **property damage** for which an **insured person** becomes legally responsible because of an accident.

Damages include prejudgment interest awarded against an **insured person**.

We will settle or defend, at **our** option, any claim for damages covered by this Part I.

ADDITIONAL DEFINITIONS

When used in this Part I:

1. "**Insured person**" means:
 - a. **you** or a **relative** with respect to an accident arising out of the ownership, maintenance, or use of an **auto** or **trailer**;
 - b. any person with respect to an accident arising out of that person's use of a **covered auto** with the permission of **you** or a **relative**;
 - c. any person or organization with respect only to vicarious liability for the acts or omissions of a person described in a or b above; and
 - d. any Additional Interest shown on the **declarations page** with respect only to its liability for the acts or omissions of a person described in a or b above.
2. "**Property damage**" means physical damage to, destruction of, or loss of use of, tangible property.

ADDITIONAL PAYMENTS

In addition to **our** limit of liability, **we** will pay for an **insured person**:

1. all expenses **we** incur in the settlement of any claim or defense of any lawsuit;
2. interest accruing after entry of judgment, until **we** have paid, offered to pay, or deposited in court, that portion of the judgment which does not exceed **our** limit of liability;
3. the premium on any appeal bond or attachment bond required in any lawsuit **we** defend. **We** have no duty to purchase a bond in an amount exceeding **our** limit of liability, and **we** have no duty to apply for or furnish these bonds;
4. up to \$250 for a bail bond required because of an accident resulting in **bodily injury** or **property damage** covered under this Part I. **We** have no duty to apply for or furnish this bond; and
5. reasonable expenses, including loss of earnings up to \$200 per day, incurred at **our** request.

EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART I.

Coverage under this Part I, including **our** duty to defend, will not apply to any **insured person** for:

1. **bodily injury or property damage** arising out of the ownership, maintenance, or use of any vehicle or trailer while being used:
 - a. to carry persons or property for compensation or a fee; or
 - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.

This exclusion:

- a. applies only to damages in excess of the minimum limit mandated by the motor vehicle financial responsibility law of New Jersey; and
 - b. does not apply to shared-expense car pools;
2. any liability assumed under any contract or agreement by **you** or a **relative**;
 3. **bodily injury** to an employee of that **insured person** arising out of or within the course of employment. This exclusion does not apply to domestic employees if benefits are neither paid nor required to be provided under workers' compensation, disability benefits, or similar laws;
 4. **bodily injury or property damage** arising out of an accident involving any vehicle, other than a **covered auto**, while being maintained or used by a person while employed or engaged in any **auto business**;
 5. **bodily injury or property damage** due to a nuclear reaction or radiation;
 6. **bodily injury or property damage** for which insurance:
 - a. is afforded under a nuclear energy liability insurance contract; or
 - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
 7. any obligation for which the United States Government is liable under the Federal Tort Claims Act;
 8. **bodily injury or property damage** caused by an intentional act of that **insured person**, or at the direction of that **insured person**, even if the actual injury or damage is different than that which was intended or expected;
 9. **property damage** to any property:
 - a. owned or being transported by that **insured person**; or
 - b. rented to, used by, or in the charge of that **insured person**, other than a residence or a private garage not owned by that **insured person**;
 10. **bodily injury or property damage** arising out of the ownership, maintenance, or use of any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
 11. **bodily injury or property damage** arising out of the ownership, maintenance, or use of any vehicle owned by a **relative** or furnished or available for the regular use of a **relative**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
 12. **bodily injury or property damage** arising out of **your** or a **relative's** use of a vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;

13. **bodily injury** or **property damage** arising out of the use of a **covered auto** while leased or rented to others. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
14. punitive or exemplary damages; or
15. **bodily injury** or **property damage** intended by, or reasonably expected to result from, a criminal act or omission of that **insured person**. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for liability coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for “each person” is the most **we** will pay for all damages due to **bodily injury** to one person resulting from any one accident;
2. subject to the “each person” limit, the amount shown for “each accident” is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for “property damage” is the most **we** will pay for the total of all **property damage** resulting from any one accident.

The “each person” limit of liability applies to the total of all claims made for **bodily injury** to a person and all claims of others derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that “combined single limit” or “CSL” applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

No one is entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

An **auto** and attached **trailer** are considered one **auto**. Therefore, the limits of liability will not be increased for an accident involving an **auto** that has an attached **trailer**.

FINANCIAL RESPONSIBILITY LAWS

When **we** certify this policy as proof of financial responsibility, this policy will comply with the law of the state where proof of financial responsibility has been certified, to the extent required by that state's law. The **insured person** must reimburse **us** if **we** make a payment that **we** would not have made if this policy were not certified as proof of financial responsibility in another state.

OTHER INSURANCE

If there is any other applicable liability insurance or bond, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a vehicle or trailer, other than a **covered auto**, will be excess over any other collectible insurance, self-insurance, or bond.

OUT-OF-STATE COVERAGE

If an accident to which this Part I applies occurs in any state, territory, or possession of the United States of America or any province or territory of Canada, other than the one in which a **covered auto** is principally garaged, and the state, province, territory, or possession has:

1. a financial responsibility or similar law requiring limits of liability for **bodily injury** or **property damage** higher than the limits shown on the **declarations page**, this policy will provide the higher limits; or
2. a compulsory insurance or similar law requiring a non-resident to maintain insurance whenever the non-resident uses an **auto** in that state, province, territory, or possession, this policy will provide the greater of:
 - a. the required minimum amounts and types of coverage; or
 - b. the limits of liability under this policy.

PART II - PERSONAL INJURY PROTECTION (PIP) COVERAGE

INSURING AGREEMENT - PERSONAL INJURY PROTECTION - MEDICAL EXPENSE COVERAGE

Subject to the Limits of Liability, if **you** pay the premium for Personal Injury Protection - Medical Expense Coverage, **we** will pay benefits incurred because of **bodily injury** caused by an accident and sustained by an **insured person**:

1. while occupying, entering into, alighting from, getting on, getting off of, loading, unloading, or using an **automobile**; or
2. as a **pedestrian**, caused by an **automobile** or by an object propelled by or from an **automobile**.

Personal Injury Protection - Medical Expense Coverage benefits consist of **medical expenses** benefits.

INSURING AGREEMENT - PERSONAL INJURY PROTECTION - NON-MEDICAL EXPENSE COVERAGE (EXTRA PIP PACKAGE)

Subject to the Limits of Liability for each coverage, if **you** pay the premium for Personal Injury Protection - Medical Expense Coverage, and do not pay a separate premium for Personal Injury Protection - Non-Medical Expense Coverage, **we** will pay, only up to base limits, Non-Medical Expense benefits incurred because of **bodily injury** caused by an accident and sustained by an **insured person**:

1. while occupying, entering into, alighting from, getting on, getting off of, loading, unloading, or using an **automobile**; or
2. as a **pedestrian**, caused by an **automobile** or by an object propelled by or from an **automobile**.

Subject to the Limits of Liability for each coverage, if **you** pay a separate premium for Personal Injury Protection - Non-Medical Expense Coverage, **we** will pay Non-Medical Expense benefits incurred because of **bodily injury** caused by an accident and sustained by an **insured person**:

1. while occupying, entering into, alighting from, getting on, getting off of, loading, unloading, or using an **automobile**; or
2. as a **pedestrian**, caused by an **automobile** or by an object propelled by or from an **automobile**.

Personal Injury Protection - Non-Medical Expense Coverage benefits consist of:

1. **income continuation** benefits;
2. **essential services** benefits;
3. **death benefits**; and
4. **funeral expenses** benefits.

When the **declarations page** does not list these four Non-Medical Expense Coverage benefits and their coverage limits, **you** have elected Medical-only Personal Injury Protection coverage, and these four benefits are not provided for **you**, nor for **relatives**.

INSURING AGREEMENT - PERSONAL INJURY PROTECTION - EXTENDED MEDICAL PAYMENTS COVERAGE

Subject to the Limit of Liability shown on the **declarations page** for Extended Medical Payments Coverage, **we** will pay benefits not covered under Personal Injury Protection - Medical Expense Coverage and incurred because of **bodily injury**:

1. caused by an accident;
2. sustained by an **insured person**; and
3. arising out of the maintenance or use of a **highway vehicle** not owned by **you** or a **relative**.

Extended Medical Payments Coverage benefits consist of **medical expenses** benefits.

ADDITIONAL DEFINITIONS

When used in this Part II:

1. **“Allowable expense”** means a medically necessary, reasonable and customary item of expense covered at least in part by an **insured person’s** health benefits plan(s) or personal injury protection plan as an **eligible expense**. When a plan provides benefits in the form of services, the reasonable monetary value of each such service shall be considered as both an **allowable expense** and a paid benefit.
2. **“Automobile”** means a self-propelled vehicle of one of the following types, which is designed for use principally on public roads:
 - a. a private passenger or station wagon type automobile that is owned or hired by **you**;
 - b. a pickup, delivery sedan or van owned by the named insured, or the spouse of the named insured who resides in the same household; or
 - c. a utility automobile, panel truck, or camper type vehicle owned by the named insured, or the spouse of the named insured who resides in the same household, and that is used as a camper, a motor home, or for recreational purposes.

However, **“automobile”** does not include:

- a. a motorcycle;
 - b. an automobile used as a public or livery conveyance;
 - c. a pickup, delivery sedan, van, or utility automobile customarily used in the occupation, profession or business of an **insured person** other than farming or ranching; or
 - d. a utility automobile customarily used for the transportation of passengers other than members of the user’s family or their guests.
3. **“Catastrophic injury treatment expense”** means reasonable, clinically supported, and necessary **medical expenses** and **non-medical expenses** for care prescribed by a treating medical provider and incurred for the treatment of:
 - a. permanent or significant brain injury;
 - b. permanent or significant spinal cord injury;
 - c. permanent or significant disfiguring injury; or
 - d. other permanent or significant injuries rendered at a trauma center or acute care hospital immediately following the accident and until the **insured person**:
 - i. is stable;
 - ii. no longer requires critical care; and
 - iii. is capable of being safely discharged or transferred to another facility in the judgment of the attending physician.
 4. **“Clinically supported”** means that a **health care provider**, prior to selecting, performing or ordering the administration of a treatment or diagnostic test, has:
 - a. personally examined the **insured person** to ensure that the proper medical indications exist to justify ordering the treatment or test;
 - b. physically examined the **insured person** including making an assessment of any current and/or historical subjective complaints, observations, objective findings, neurologic indications, and physical tests;
 - c. considered any and all previously performed tests that relate to the injury, and the results, and which are relevant to the proposed treatment or test; and

- d. recorded and documented these observations, positive and negative findings, and conclusions on the **insured person's** medical records.
5. "**Death benefits**" means the unpaid remainder of **income continuation** benefits and/or **essential services** benefits. Where an **insured person** is otherwise entitled to one or both of these coverages, the remainders of the limits of one or both are due in the event of the death of the **insured person** as a result of injuries sustained in an accident. If the **insured person** was, at the time of the accident, an **income producer** otherwise entitled to **income continuation** benefits, the remainder thereof is due. If the **insured person** was, at the time of the accident, a provider of **essential services** otherwise entitled to **essential services** benefits, the remainder thereof is due.
- However, where the Limit of Liability shown on the **declarations page** for "**Death Benefits**" is not shown as "Base," "**Death Benefits**" shall mean both the benefits as set forth in the preceding paragraph and also the Limit of Liability shown on the **declarations page** for "**Death Benefits**," which combined amount shall be due in the event of the death of an **insured person** as a result of injuries sustained in an accident.
6. "**Decision point**" means those junctures in the treatment of injuries indicated by hexagonal boxes on the Care Paths where a decision must be made about the continuation or choice of further treatment. The determination whether to administer one of the tests listed in N.J.A.C. 11:3-4.5(b) also constitutes a **decision point** for **identified injuries**, and for all other injuries.
7. "**Decision point review**" means the procedures set forth in an insurer's approved **decision point review** plan in regard to receiving notice and responding to requests for proposed treatment or testing at **decision points**.
8. "**Diagnostic test**" means a medical service or procedure utilizing biomechanical, neurological, neurodiagnostic, radiological, vascular, or any means other than bioanalysis, intended to assist in establishing a medical, dental, physical therapy, chiropractic or psychological analysis, for the purpose of recommending or developing a course of treatment for the tested patient to be implemented by the treating practitioner or by the consultant.
9. "**Eligible charge**" means the treating **health care provider's** usual, customary and reasonable charge or the upper limit of the medical fee schedule as found in N.J.A.C. 11:3-29.6, whichever is lower.
10. "**Eligible expense**" means:
- a. in the case of health benefits plans, that portion of the **medical expenses** incurred for treatment of an injury which is covered under the terms and conditions of the plan, without application of the deductible(s) and co-payment(s), if any; and
 - b. in the case of personal injury protection plans, that portion of the **medical expenses** incurred for treatment of an injury which, without considering any deductible and co-payment, shall not exceed:
 - i. the percent or dollar amounts specified on the medical fee schedules, or the actual billed expense, whichever is less; or
 - ii. the reasonable amount for the **medical expense** as determined by **us**, considering the medical fee schedules **we** use to determine fees for simi-

lar services or equipment in the region where the service or equipment was provided, when an incurred **medical expense** is not included on the medical fee schedules.

11. **“Emergency care”** means all medically necessary treatment of a traumatic injury or a medical condition manifesting itself by acute symptoms of sufficient severity such that absence of immediate attention could reasonably be expected to result in death, serious impairment to bodily functions, or serious dysfunction of a bodily organ or part. Such **emergency care** shall include all medically necessary care immediately following an **automobile** accident, including, but not limited to, immediate pre-hospitalization care, transportation to a hospital or trauma center, emergency room care, surgery, critical and acute care. **Emergency care** extends during the period of initial hospitalization until the patient is discharged from acute care by the attending physician. **Emergency care** shall be presumed when medical care is initiated at a hospital within 120 hours of the accident.
12. **“Essential services”** means those services not performed for income that are ordinarily performed by an individual for the care and maintenance of such individual’s family or family household. Payment for **essential services** shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute **essential services** ordinarily performed by the injured **insured person**.
13. **“Funeral expenses”** means all reasonable funeral, burial and cremation expenses on account of the death of any one **insured person** in any one accident.
14. **“Health care provider”** means those persons licensed or certified to perform health care treatment or services compensable as **medical expenses** and shall include, but not be limited to:
 - a. a hospital or health care facility which is maintained by a state or any of its political subdivisions;
 - b. a hospital or health care facility licensed by the Department of Health and Senior Services;
 - c. other hospitals or health care facilities designated by the Department of Health and Senior Services to provide health care services, or other facilities, including facilities for radiology and diagnostic testing, freestanding emergency clinics or offices, and private treatment centers;
 - d. a nonprofit voluntary visiting nurse organization providing health care services other than in a hospital;
 - e. hospitals or other health care facilities or treatment centers located in other states or nations;
 - f. physicians licensed to practice medicine and surgery;
 - g. licensed chiropractors;
 - h. licensed dentists;
 - i. licensed optometrists;
 - j. licensed pharmacists;
 - k. licensed chiropodists;
 - l. registered bio-analytical laboratories;
 - m. licensed psychologists;
 - n. licensed physical therapists;
 - o. certified nurse-midwives;

- p. certified nurse-practitioners/clinical nurse specialists;
 - q. licensed health maintenance organizations;
 - r. licensed orthotists and prosthetists;
 - s. licensed professional nurses;
 - t. licensed occupational therapists;
 - u. licensed speech-language pathologists;
 - v. licensed audiologists;
 - w. licensed physicians' assistants;
 - x. licensed physical therapy assistants;
 - y. licensed occupational therapy assistants; and
 - z. providers of other health care services or supplies, including durable medical goods.
15. **"Highway vehicle"** means a land motor vehicle or trailer other than:
- a. an **automobile**;
 - b. a farm type tractor or other equipment designed for use principally off public roads while not on public roads;
 - c. a vehicle operated on rails or crawler treads; or
 - d. a vehicle while located for use as a residence or premises.
16. **"Hospital expenses"** means reasonable and necessary expenses for:
- a. the cost of treatment and services by a licensed and accredited acute care facility which engages primarily in providing diagnosis, treatment and care of sick and injured persons on an inpatient or outpatient basis;
 - b. the cost of covered treatment and services provided by an extended care facility which provides room and board and skilled nursing care 24 hours a day and which is recognized by the administrators of the federal Medicare program as an extended care facility; and
 - c. the cost of covered services at an ambulatory surgical facility supervised by a physician licensed in New Jersey or in another jurisdiction and recognized by the New Jersey Commissioner of Health and Senior Services, or any other facility licensed, certified or recognized by the New Jersey Commissioner of Health and Senior Services or the New Jersey Commissioner of Human Services or a nationally recognized system such as the Commission on Accreditation of Rehabilitation Facilities, or by another jurisdiction in which it is located.
17. **"Identified injury"** means the following **bodily injuries** for which the New Jersey Department of Banking and Insurance has established medical treatment protocols in accordance with N.J.S.A. 39:6A-3a and 39:6A-4a:
- a. cervical spine: soft tissue injury;
 - b. cervical spine: herniated disc/radiculopathy;
 - c. thoracic spine: soft tissue injury;
 - d. thoracic spine: herniated disc/radiculopathy;
 - e. lumbar-sacral spine: soft tissue injury;
 - f. lumbar-sacral spine: herniated disc/radiculopathy; and
 - g. any other **bodily injury** for which the New Jersey Department of Banking and Insurance has established medical treatment protocols in accordance with N.J.S.A. 39:6A-3.1a.

18. **“Income”** means salary, wages, tips, commissions, fees and other earnings derived from work or employment.
19. **“Income continuation”** means the payment of loss of income as a result of **bodily injury** to an **insured person** who, at the time of the accident causing **bodily injury**, was in an occupational status, earning or producing income.
20. **“Income producer”** means a person who, at the time of the accident causing personal injury or death, was in an occupational status, earning or producing income.
21. **“Insured person”** or **“insured persons”** means:

- a. **you** or any **relative**:
 - i. while **occupying**, loading, or unloading an **automobile**; or
 - ii. when struck by an **automobile**, or by an object propelled by or from an **automobile**, while a **pedestrian**; and
- b. any other person while **occupying**, loading, or unloading a **covered auto** with **your** express or implied permission.

However, with respect to Extended Medical Payments Coverage only, **“insured person”** or **“insured persons”** means only:

- a. **you** or any **relative**:
 - i. while **occupying**, loading, or unloading a **highway vehicle** that is neither owned by nor available for the regular use of **you** or any **relative**; or
 - ii. sustaining **bodily injury** as a pedestrian, caused by a **highway vehicle** that is neither owned by nor available for the regular use of **you** or any **relative**; and
- b. any other person sustaining **bodily injury** within New Jersey:
 - i. while **occupying**, loading, or unloading a **highway vehicle** being operated by **you** or a **relative** that is neither owned by nor available for the regular use of **you** or any **relative**, and is not a motorcycle or a vehicle being used as a public or livery conveyance; or
 - ii. while **occupying**, loading, or unloading a **highway vehicle** that is being operated by any other person with **your** express or implied permission, but that is neither owned by nor available for the regular use of **you** or any **relative**, and is not a motorcycle or a vehicle being used as a public or livery conveyance.

22. **“Medical expenses”** means reasonable and necessary expenses incurred for or as:
 - a. medical, surgical, rehabilitative, and diagnostic treatments and services;
 - b. **hospital expenses**;
 - c. ambulance or transportation services;
 - d. medication; and
 - e. **non-medical expenses** that are for services prescribed by a treating **health care provider** for a permanent or significant brain, spinal cord or disfiguring injury.

All **medical expenses** must:

- a. be rendered by a **health care provider**;
- b. be **clinically supported** and consistent with the symptoms, diagnosis or indications of the **insured person**;
- c. be consistent with the most appropriate level of service that is in accordance with the standards of good practice and standard professional treatment protocols, including care paths for an **identified injury**;

- d. not be rendered primarily for the convenience of the **insured person** or the **health care provider**; and
 - e. not include unnecessary testing or treatment.
- Medical expenses** include expenses for any non-medical remedial treatment rendered in accordance with recognized religious methods of healing.
23. **“Non-medical expenses”** means charges for:
 - a. products and devices that are not exclusively used for medical purposes or as durable medical equipment; and
 - b. services and activities such as recreational activities, trips, and leisure activities.
 24. **“Pedestrian”** means any person who is not **occupying** a vehicle propelled by other than muscular power and designed primarily for use on highways, rails and tracks.
 25. **“Precertification”** or **“precertification request”** means the procedures in an insurer’s approved **decision point review** plan for the insurer to receive notice and respond to requests for listed specific medical procedures, treatments, diagnostic tests, other services and durable medical equipment that are not subject to **decision point review** and that may be subject to overutilization.

EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART II.

1. Coverage under this Part II will not apply to **bodily injury**:
 - a. sustained while committing a high misdemeanor or felony;
 - b. sustained while seeking to avoid lawful apprehension or arrest by a police officer;
 - c. sustained by an **insured person** acting with the specific intent of causing **bodily injury** or damage to any person;
 - d. sustained by any person operating or **occupying** an **automobile** without the permission of the owner of the **automobile** or of the named insured under the policy of insurance covering that **automobile**;
 - e. sustained by an **insured person** while the owner or registrant of an **automobile** registered or principally garaged in New Jersey that was being operated without personal injury protection coverage;
 - f. sustained while **occupying** any vehicle used as a public or livery conveyance for passengers;
 - g. sustained while **occupying** any vehicle rented to others with a driver;
 - h. sustained by any person other than **you** or a **relative** if that person is entitled to New Jersey personal injury protection coverage as a named insured or relative under the terms of another policy;
 - i. sustained by a **relative** if the **relative** is entitled to New Jersey personal injury protection coverage as a named insured or relative under the terms of another policy;
 - j. arising out of the ownership, maintenance, operation, or use, including loading or unloading, of any vehicle while located for use as a residence or premises; or
 - k. due to a nuclear reaction or radiation.

2. Coverage under this Part II does not apply to the following diagnostic tests:
 - a. spinal diagnostic ultrasound;
 - b. iridology;
 - c. reflexology;
 - d. surrogate arm mentoring;
 - e. surface electromyography (surface EMG);
 - f. mandibular tracking and stimulation; and
 - g. any other diagnostic test that is determined to be ineligible for coverage under Personal Injury Protection Coverage by New Jersey law or regulation.
3. Pursuant to N.J.A.C. 13:30-8.22(b), coverage under this Part II does not apply to the following diagnostic tests which have been identified by the New Jersey State Board of Dentistry as failing to yield data of sufficient volume to alter or influence the diagnosis or treatment plan employed to treat TMJ/D:
 - a. mandibular tracking;
 - b. surface EMG;
 - c. sonography;
 - d. doppler ultrasound;
 - e. needle EMG;
 - f. electroencephalogram (EEG);
 - g. thermograms/thermographs;
 - h. video fluoroscopy; and
 - i. reflexology.
4. Coverage under this Part II does not apply to **bodily injury** to any **insured person** who, at the time of the accident, was the owner or registrant of an **automobile**, registered or principally garaged in New Jersey, that was being operated without personal injury protection coverage;
5. Coverage under Extended Medical Payments Coverage in this Part II does not apply to **bodily injury** to any **insured person**:
 - a. who is entitled to benefits for the **bodily injury** under:
 - i. Personal Injury Protection Coverage;
 - ii. any workers' compensation law; or
 - iii. Medicare;
 - b. who would be entitled to benefits, for the **bodily injury** under Personal Injury Protection Coverage, except for the application of a:
 - i. deductible;
 - ii. co-payment; or
 - iii. medical fee schedule promulgated by the New Jersey Department of Banking and Insurance;
 - c. who sustains said **bodily injury**:
 - i. while occupying, entering into, alighting from, getting on, getting off of, loading, unloading, or using an **automobile**; or
 - ii. while a **pedestrian** as a result of being hit by an **automobile** or as a result of an object being propelled by or from an **automobile**; or
 - d. other than **you**, a **relative** or any resident of New Jersey, if the accident occurs outside of New Jersey.

LIMITS OF LIABILITY

Our limit of liability for benefits under Personal Injury Protection - Medical Expense Coverage shall be as follows:

1. Payment for **medical expenses** due to **bodily injury** to each named insured, and to any **insured person**, injured in any one accident shall be subject to the limit shown on the **declarations page**, and shall be reduced by the applicable deductible shown, the applicable statutory co-payment, any applicable **decision point review** co-payment, and any additional deductible or co-payment imposed due to the improper designation of a health insurer as primary to the PIP coverage herein.
2. In place of the limit shown on the **declarations page**, payment for **medical expenses** due to **bodily injury** to **insured persons** other than the named insured or **relatives** shall be limited to \$250,000 for each person injured in any one accident, and shall be subject to a \$250 per person deductible.
3. In place of the limit shown on the **declarations page**, payment for **medical expenses** due to **catastrophic injury treatment expense** for **bodily injury** to the named insured or **relatives** shall be subject to a limit of liability of \$250,000 for each person injured in any one accident, and shall be subject to the deductible shown. This limit of \$250,000 for **catastrophic injury treatment expense** includes, and is not in addition to, the limit shown on the **declarations page** for PIP - Medical Expense for **bodily injury** applicable to the named insured and **relatives**.

Our limits of liability for each benefit under Personal Injury Protection - Non-Medical Expense Coverage shall be as follows:

1. Payment of **income continuation** benefits arising from income loss due to **bodily injury** to each **insured person** in any one accident shall be subject to the per week limit shown on the **declarations page**, and is further limited as follows:
 - a. 100% of weekly loss of income up to \$100 for up to 52 weeks of loss of income;
 - b. 75% of weekly loss of income greater than \$100 for up to 52 weeks of loss of income; and
 - c. 75% of weekly loss of income for any loss of income incurred after 52 weeks for as long as the disability persists;up to the Limit of Liability specified on the **declarations page** for this coverage.

Income continuation benefits are payable only in reimbursement of a loss of income suffered by an **insured person** who is an **income producer**. **Income continuation** benefits are not payable for any time period after the death of the **insured person**. In no case shall **income continuation** benefits exceed the net income normally earned during the period in which the benefits are payable. **Income continuation** benefits shall be prorated for any period of **bodily injury** disability less than one week.

2. Payment for **essential services** benefits arising from loss of services due to **bodily injury** to each **insured person** in any one accident shall be made only in reimbursement of necessary and reasonable expenses incurred for such substitute **es-**

- essential services** ordinarily performed by the injured **insured person** for himself, his family, and members of his family residing in the household, and shall be:
- a. payable only during the life of the injured **insured person**; and
 - b. subject to the per week limit shown on the **declarations page**, and subject to the total coverage limit shown on the **declarations page**.
3. **Death benefits** due to the death of an **insured person** shall be payable without regard to the period of time elapsing between the date of the accident and the date of death provided death occurs within two years of the accident and results from **bodily injury**. Where the limit shown on the **declarations page** is \$10,000, payment will be in that amount combined with any benefits that would have been owed had “Base” **death benefits** been elected. Where the coverage limit shown for **death benefits** on the **declarations page** is “Base,” payment shall be limited to the sum of:
- a. the difference between \$5,200 and all payments made for **income continuation** benefits prior to the death of the **insured person**, only when **income continuation** benefits were otherwise owed; and
 - b. the difference between \$4,380 and all payments made for **essential services** prior to the death of the **insured person**, only when the **insured person** ordinarily performed **essential services** prior to the accident, and **essential services** benefits were otherwise owed; and
4. Payment for **funeral expenses** due to the death of each **insured person** in any one accident shall not exceed the limit shown on the **declarations page**.

The limits for PIP - Non-Medical Expense Coverage benefits set forth in the immediately preceding four numbered paragraphs shall apply to **you**. They shall also apply to **relatives**, but only when indicated on the **declarations page** as being entitled to PIP - Non-Medical Expense increased limits, and provided that they are not named insureds under any other automobile insurance policies.

For **relatives** when not indicated on the **declarations page** as entitled to increased limits for PIP - Non-Medical Expense benefits, and for other persons, other than **you**, entitled to PIP - Non-Medical Expense benefits under this policy, the limits shall be as follows:

1. Payment for **income continuation** due to **bodily injury** to each **insured person** in any one accident shall be limited to \$100 per week subject to a limit of \$5,200. **Income continuation** benefits are payable only in reimbursement of a loss of income suffered by an **insured person** who is an **income producer**. However, in no case shall **income continuation** benefits exceed the net income normally earned during the period in which the benefits are payable. **Income continuation** benefits shall be prorated for any period of **bodily injury** disability less than one week;
2. Payment for **essential services** benefits arising from loss of services due to **bodily injury** to each **insured person** in any one accident shall be made only in reimbursement of necessary and reasonable expenses incurred for such substitute **essential services** ordinarily performed by the injured **insured person** for himself, his family, and members of his family residing in the household, and shall be:
 - a. payable only during the life of the injured **insured person**; and

- b. limited to \$12 per day, subject to a limit of \$4,380 due to **bodily injury** to each **insured person** in any one accident;
3. Payment for **death benefits** shall be limited to the sum of:
 - a. the difference between \$5,200 and all payments made for **income continuation** benefits prior to the death of the **insured person**; and
 - b. the difference between \$4,380 and all payments made for **essential services** prior to the death of the **insured person** if the **insured person** ordinarily performed **essential services** prior to the accident; and
4. Payment for **funeral expenses** due to the death of each **insured person** in any one accident shall not exceed \$1,000.

Our limit of liability for benefits under Extended Medical Payments Coverage shall be limited to the amount shown on the **declarations page** for **medical expenses** for each **insured person** in any one accident.

Our limit of liability for each benefit under this Part II is the most **we** will pay for each **insured person** injured in any one accident, regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

Any amounts payable under this Part II shall be reduced by all sums:

1. paid because of **bodily injury** as benefits under federal law to active and retired military personnel; and
2. paid or payable because of **bodily injury** under any of the following:
 - a. workers' compensation insurance; or
 - b. employees' temporary disability benefits statutes.

If **we** have paid **covered expenses** under this policy and the **insured person** is entitled to, but has failed to apply for, workers' compensation or employees' temporary disability benefits, **we** may apply directly to the provider of such benefits for reimbursement of payments made under this policy.

Payments for **medical expenses** under this Part II are subject to the following provisions:

1. Payment for **medical expenses** incurred because of **bodily injury** to **you** or a **relative** in any one accident shall be:
 - a. reduced by the applicable deductible shown on the **declarations page**; and
 - b. subject to a co-payment of 20% on the portion of **medical expenses** that falls between the amount of the deductible shown on the **declarations page** and \$5,000.
2. Payment for **medical expenses** shall be limited by the medical fee schedules promulgated by the New Jersey Department of Banking and Insurance for spe-

cific injuries or services. If no amount is set forth, payment shall be made on a reasonable basis, as determined by **us**, considering the medical fee schedules for similar services or equipment in the region where the service or equipment was provided.

HEALTH INSURANCE PRIMARY

The following provisions apply to the payment of **medical expenses** when **you** have elected the “Health Insurance Primary” option and **your** election is shown on the **declarations page**:

1. Priority of Benefits
 - a. The health benefits plans under which **you** and any **relative** are insured shall provide primary coverage for **allowable expenses** incurred by **you** or any **relative** before any **medical expenses** are paid by **us**.
 - b. This Personal Injury Protection Coverage shall provide secondary coverage for **medical expenses** representing **allowable expenses** which remain uncovered after the health benefits plans under which **you** or any **relative** are insured have paid benefits towards those **allowable expenses**.
 - c. The total benefits paid by the health benefits plans and this Personal Injury Protection Coverage shall not exceed the total amount of **allowable expenses**.
2. **We** will determine the amount of **medical expense** benefits payable as follows:
 - a. To calculate the amount of actual benefits to be paid by **us**, **we** will first determine the amount of **eligible expenses** which would have been paid by **us**, after application of the deductible and co-payment as shown on the **declarations page**, if **you** had not selected the “Health Insurance Primary” option.
 - b. If the remaining **allowable expenses** are less than the benefits calculated in paragraph “a.” above, **we** will pay actual benefits equal to the remaining **allowable expenses**, without reducing the remaining **allowable expenses** by the deductible or co-payment.
 - c. If the remaining **allowable expenses** are greater than or equal to the benefits calculated in paragraph “a.” above, **we** will pay actual benefits equal to the benefits calculated in paragraph “a.” above, without reducing the remaining **allowable expenses** by the deductible or co-payment.
 - d. **We** will not reduce **our** payment of actual benefits:
 - i. by any deductibles or co-payments of the health benefits plans which have provided primary coverage for **medical expenses**; or
 - ii. for any **allowable expense** remaining uncovered which otherwise would not be an **eligible expense** under Personal Injury Protection Coverage, except as set forth in paragraph “e.” below.
 - e. In determining remaining uncovered **allowable expenses**, **we** shall not consider any amount for items of expense which exceed the dollar amounts or percentages recognized by the medical fee schedules promulgated by the New Jersey Department of Banking and Insurance.

- f. The total amount of **medical expenses** payable for **you** or any **relative** per accident shall not exceed the maximum amount payable for **medical expenses** under this policy.
3. If after **you** have selected the “Health Insurance Primary” option **we** determine that **you** or any **relative** did not have a health benefits plan in effect at the time of an accident which resulted in **bodily injury to you** or any **relative**, or **you** had health coverage in effect at the time of the accident which is such that the “Health Insurance Primary” option selection could have been invalidated by **us** but was not, **medical expense benefits** will be provided to **you** or any **relative**, subject to the following:
 - a. **medical expense benefits** payable to **you** or any **relative** as a result of any one accident shall:
 - i. be reduced by the sum of \$750 and by the personal injury protection deductible shown on the **declarations page**;
 - ii. be subject to a co-payment of 20% for amounts less than \$5,000 after the deductible has been satisfied;
 - iii. be determined by the medical fee schedules promulgated by the New Jersey Department of Banking and Insurance or, if an item is not included on the medical fee schedules, the amount payable shall be determined by **us**, on a reasonable basis, considering the medical fee schedules for similar services or equipment in the region where the service or equipment was provided; and
 - iv. not exceed the maximum Limit of Liability shown on the **declarations page** for **medical expenses** under Personal Injury Protection Coverage.
 - b. All items of **medical expense** incurred by **you** or any **relative** for treatment of **bodily injury** shall be **eligible expenses** to the extent:
 - i. the treatment or procedure from which the expenses arose is recognized on the medical fee schedules promulgated by the New Jersey Department of Banking and Insurance; or
 - ii. they are reasonable **medical expenses** in accordance with N.J.S.A. §39:6A-4, as determined by **us**.
 - c. **We** shall be entitled to recover, for the contract period in which the **auto-mobile-related bodily injury** occurred, the difference between the reduced premiums paid on the policy and the amount of premium which would have been due on the policy had **you** not selected the “Health Insurance Primary” option. Further, no premium reduction for the “Health Insurance Primary” option shall be provided on the policy during the remainder of the current policy contract period.

OTHER INSURANCE

Subject to the provisions of N.J.A.C. 11:3-37.12, the Personal Injury Protection insurance provided by this policy for **you**, and for any **relative** who is not a named insured under any other policy affording personal injury protection coverage, shall be primary with respect to any other applicable personal injury protection insurance. No one shall

recover personal injury protection benefits under more than one policy for **bodily injury** sustained in any one accident.

No one will be entitled to duplicate payments for the same elements of loss under this or any similar insurance, including approved plans of self-insurance and any other coverage provided under this policy.

With respect to Extended Medical Payments Coverage, any insurance **we** provide under this policy shall be excess over any amounts payable or required to be provided under any other automobile no-fault law or medical payments coverage.

If **you** have elected the “Health Insurance Primary” option, coverage for **medical expenses** under this Part II shall be excess to coverage provided by all health insurance plans, not including plans covering only dental expenses or services, under which **you**, or a **relative** who is not a named insured under any other personal injury protection coverage, are eligible. The amount payable as excess coverage shall be determined in accordance with Sections 11:3-37.1 through 11:3-37.14 of the New Jersey Administrative Code.

If there is other applicable personal injury protection insurance, **we** shall be entitled to recover a proportionate share from each of the other insurers of any **covered expenses** paid under this policy.

DECISION POINT REVIEW AND VOLUNTARY NETWORKS (DPR)

Pursuant to N.J.A.C. 11:3-4, the New Jersey Department of Banking and Insurance has published standard courses of treatment, identified as “Care Paths”, for soft tissue injuries of neck and back, collectively referred to as **identified injuries** (see the definition in this policy part).

N.J.A.C. 11:3-4 also establishes guidelines for the use of certain diagnostic tests. The Care Paths provide that treatment be evaluated at certain intervals called **decision points**. At **decision points**, **insured persons** or their **health care providers** must provide **us** with information about further treatment the provider intends to pursue. This is called **decision point review**.

The following diagnostic tests are subject to **decision point review**:

- Brain Mapping
- Brain Audio Evoked Potentials (BAEP)
- Brain Evoked Potentials (BEP)
- Computer Assisted Tomograms (CT, CAT Scan)
- Dynatron/Cybex Station/Cybex Studies
- Videofluoroscopy
- H-Reflex Studies
- Sonogram/Ultrasound

- Needle Electromyography
- Nerve Conduction Velocity (NCV)
- Somatosensory Evoked Potential (SSEP)
- Magnetic Resonance Imaging (MRI)
- Electroencephalogram (EEG)
- Visual Evoked Potential (VEP)
- Thermogram/Thermography
- Any other diagnostic test that is subject to the requirements of Decision Point Review by New Jersey law or regulation

For treatment of injuries other than an **identified injury** (soft tissue injury of the neck or back), **insured persons** or their **health care providers** are required to obtain **precertification** for all of the services listed below. If you or your providers fail to **precertify** such services, or fail to provide **clinically supported** findings that support the treatment, diagnostic tests or durable medical equipment requested, payment of bills will be subject to a penalty co-payment of 50% even if the services are determined to be medically necessary. The following treatments, services, goods and **non-medical expenses** require **precertification**, unless they are part of a previously approved treatment plan.

- Non-Emergency Inpatient and Outpatient Hospital Care
- All Non-Emergency Psychological/Psychiatric Services
- Extended Care and Rehabilitation Facilities
- All Home Health Care
- Non-Emergency Dental Restoration
- Durable Medical Goods, including orthotics and prosthetics, that collectively exceed \$50.00 or rental over 30 days.
- Physical, Occupational, Speech, Cognitive, or other restorative therapy or body part manipulation, including massage therapy, except that provided for **identified injuries** in accordance with **decision point review**.
- All Pain Management services, except as provided for **identified injuries** in accordance with **decision point review**.

DPR - VOLUNTARY PRECERTIFICATION

Insured persons and their **health care providers** are strongly encouraged to participate in a voluntary **precertification** process by providing a comprehensive treatment plan for both **identified injuries** and other injuries. An approved treatment plan means that as long as treatment is consistent with the approved plan, additional notification to **us** at **decision points** and for Treatment, Diagnostic Testing or DME requiring **precertification** is not required.

DPR - NJPIP-1099

Treatment administered in **emergency care**, and / or within 10 days of the accident, is not subject to **decision point review** or **precertification** requirements. This provision

shall not be construed so as to require reimbursement for tests and treatment that are not medically necessary, N.J.A.C. 11:3-4.7(b).

If your provider fails to request **decision point review / precertification** where required, or fails to provide clinical findings that support the treatment, testing or durable medical equipment requested, a co-payment penalty of 50% will apply even if the services are determined to be medically necessary. For benefits to be reimbursed in full, treatment, testing and durable medical equipment must be medically necessary.

DPR - COMPLETE REQUESTS

Complete requests for **decision point review** and **precertification** consist of the **insured person's** full name and birth date, the policy number, the claim number, and the date of the accident. Complete requests also must include dates of prior treatment, legible office notes, diagnoses, diagnostic tests performed including the test findings, recommended tests, pre-existing conditions, and any additional information required to review the treatment request.

When an incomplete request is received, your provider will be informed that additional medical documentation is required. An administrative denial for failure to provide medical documentation will be issued and will remain in effect until all requested information needed to determine medical necessity regarding the requested treatment is received. Within three business days following **our** receipt of all appropriate documentation, **we** will provide **our** determination. Pursuant to N.J.A.C. 11:3-4.4(d) and the policy of insurance, failure to comply with **decision point review** or **precertification** requirements will result in a 50% penalty co-payment for any subject treatment or testing that is determined to be medically necessary and causally related to the accident. This penalty co-payment will apply to care furnished between the time notification of treatment is required and the time **we** have had an opportunity to respond after receipt of the requested additional medical documentation.

DPR - HOW TO SUBMIT DECISION POINT/PRE-CERTIFICATION REQUESTS

Decision point review / precertification requests must be submitted in accordance with **our** approved Decision Point Review Plan. **Insured persons** will be notified of the Plan requirements upon **our** receipt of the report of an accident causing injury.

Our review of **decision point / precertification** requests and/or extended treatment notifications will be completed within three business days following the day of receipt of the necessary information.

If **we** fail to notify the **insured person** or provider within three business days, the **insured person** may continue with the test or treatment until a final determination is communicated to the **insured person** or the provider. In addition, **we** may request that the **insured person** attend an Independent Medical Examination. If an Independent Medical Examination is requested, the appointment for the physical examination will

be scheduled within seven calendar days of receipt of the notice, unless the injured person agrees with **us** to extend the time period.

The Independent Medical Examination will be conducted by a **health care provider** within the same specialty as the **insured person's** treating **health care provider** and will be conducted in a location reasonably convenient to the **insured person**. Results of the Independent Medical Examination and the determination regarding the **precertification** request will be submitted to the **insured person** in writing and to the **health care provider** in writing and by telephone within three business days after the examination. Please note that medically necessary treatment may proceed while the Independent Medical Examination is being scheduled and until the results are available. If the examining provider prepares a written report concerning the examination, the injured person, or his or her designee, shall be entitled to a copy of the report upon request.

In accordance with the AICRA Regulations, at **our** request the **insured person** must provide all medical records and diagnostic studies/tests available before or at the time of the scheduled examination. Failure to provide the required medical records and/or diagnostic studies/tests will be considered an unexcused failure to attend the IME. If the injured person has two or more unexcused failures to attend the scheduled exam, or three failures in total to attend the scheduled exam, notification will be immediately sent to the injured person or to his or her designee, and all providers treating the injured person for the diagnosis (and related diagnosis) contained in the Attending Provider Treatment Plan form. The notification will place the injured person on notice that all future treatment, diagnostic testing or durable medical equipment required for the diagnosis (and related diagnosis) contained in the Attending Provider Treatment Plan form will not be reimbursable as a consequence for failure to comply with the plan.

Unless otherwise indicated, all determinations regarding **decision point review** and **precertifications** will be provided by phone and in writing within three business days following the day of receipt of the request. If a determination is not rendered within three business days following the day of receipt of the request, the treatment or testing may proceed until the **insured person** and/or the provider have been notified that reimbursement for the treatment or testing is not authorized.

Any denial of treatment or testing based on medical necessity shall be made by a physician or dentist. Medical authorizations are not a **GUARANTEE** of payment. All claims are subject to regulatory eligibility and coverage investigations, benefit reductions, and/or coverage denials as required and/or permitted by the State of New Jersey.

DPR - VOLUNTARY UTILIZATION PROGRAM (Waiver of Policy Co-payment)

As outlined in N.J.A.C. 11:3-4.8, there is a co-payment applicable to certain non-emergency care and services received from non-network providers. Currently, there is a 30% co-payment applicable to diagnostic imaging (MRI and CAT Scan), electrodiagnostic testing listed in N.J.A.C. 11:3-4.5(b)1-3 (except when performed by the treating

provider in conjunction with a needle EMG), and durable medical goods greater than \$50.00 cost or rental over 30 days. The co-payment for prescription drugs is \$10.00.

We make available a provider network that may be used by **insured persons**. When a network provider is used for any of these services, **we** will waive the 30% co-payment. Additional information regarding access to **our** Voluntary Network will be provided to **insured persons** during the **decision point review / precertification** process.

In addition **we** make available a Preferred Provider Organization (PPO) that includes all specialties, hospitals, outpatient and urgent care facilities. The use of a provider from this PPO is strictly voluntary and is provided as a service to **insured persons**. A co-payment penalty will not be applied if you choose to select a provider outside this preferred provider network. **Our** preferred providers have facilities located throughout the state. Additional information regarding the PPO network will be provided to **insured persons** during the **decision point review / precertification** process.

DPR - PENALTY

As outlined in N.J.A.C. 11:3-4.4(d), failure to request **decision point review** or **precertification** as required in the Decision Point Review/Precertification Plan will result in a 50% co-payment penalty. This co-payment penalty will be in addition to any co-payment set forth elsewhere in this Part II. Co-payments and deductibles will first be applied to the eligible charges and then co-payment penalties will be applied for failure to precertify.

ASSIGNMENT OF BENEFITS

Benefits under this Part II are not assignable except to a **health care provider** for **medical expenses** representing covered services and/or supplies furnished by the **health care provider** to an **insured person**.

In order for any assignment of benefits to be valid, the **health care provider** must agree, in writing as part of the assignment, to comply fully with **our** Decision Point Review Plan, all **precertification** requirements, and all the terms and conditions of this policy. An assignment that does not explicitly contain such an agreement is invalid.

The **health care provider** must also agree, in writing as part of the assignment, to hold harmless the **insured person, us, and our** vendor for any reduction in benefits caused by the **health care provider's** failure to fully comply with the terms of **our** Decision Point Review Plan, all **precertification** requirements, or the terms and conditions of this policy.

Any and all assignments of benefits by an **insured person** to a **health care provider** shall become void and unenforceable under the following conditions:

1. coverage is not afforded under this policy;

2. a **health care provider** of services and/or supplies does not submit to an Examination Under Oath when **we** request same;
3. a **health care provider** of services and/or supplies does not comply with all requests for medical records or test results;
4. a **health care provider** does not comply with all the requirements, duties and conditions of this policy, including but not limited to all duties of cooperation listed in Part VI - Duties in Case of an Accident or Loss; or
5. a **health care provider** does not comply with the "Dispute Resolution" provisions in this Part II of the policy and in **our** approved Decision Point Review Plan, including utilization of the Internal Appeal Process.

INTERNAL APPEAL PROCESS REQUIREMENTS

If the **insured person** disagrees with **our** determination related to **decision point review, precertification** or payment of **medical expenses**, a written request for reconsideration of the decision may be submitted to **our** Plan Administrator in accordance with **our** Decision Point Review Plan. The request must include the basis for the appeal. The **insured person**, and one or more **health care providers**, may be requested to submit additional documentation in order to complete the internal review.

If a **health care provider** with a valid assignment of benefits disagrees with **our** determination related to **decision point review, precertification** or payment of **medical expenses**, a written request for reconsideration of the decision must be submitted to **our** Plan Administrator in accordance with **our** Decision Point Review Plan. The request must include the basis for the appeal. The **insured person**, and the **health care provider**, may be requested to submit additional documentation in order to complete the internal review.

A **health care provider** not holding a valid assignment of benefits shall have no right to present any claim or bring any action directly against **us** for benefits under the policy, regardless of forum. Accordingly, such **health care provider** may not request or engage in Alternate Dispute Resolution as provided for in N.J.S.A. 39:6A-5.1. This paragraph does not preclude a **health care provider** that is not holding a valid assignment of benefits from participating in the request for reconsideration process as set forth in the preceding paragraph.

All requests for reconsideration will be reviewed within 10 business days from receipt of the notice and all supporting documents. A Medical Director will be available to consult with the **health care provider** during the reconsideration process. A final decision will be communicated to the **insured person** and the **health care provider** in writing within 10 business days of receipt of the request for reconsideration and/or receipt of any supporting documentation **we** may request.

If the **insured person** or **health care provider** retains counsel to represent them during the appeal process, they do so strictly at their own expense. No counsel fees or costs incurred during the appeal process shall be compensable.

Any dispute submitted by an **insured person** that has not been resolved through the Internal Appeal Process may be submitted to Alternate Dispute Resolution pursuant to N.J.A.C. 11:3-5.1. However, **health care providers** who are valid assignees must comply with the following section.

DISPUTE RESOLUTION - HEALTH CARE PROVIDERS WITH A VALID ASSIGNMENT OF BENEFITS

If **we** or any assignee seeking Personal Injury Protection benefits disagree as to the provision of benefits assigned, either party shall have the right to submit the matter to Alternate Dispute Resolution in accordance with N.J.A.C. 11:3-5. However, prior to submitting the matter to Alternate Dispute Resolution, the assignee must utilize **our** Internal Appeal Process as outlined in this policy and **our** Decision Point Review Plan approved by the Department of Banking and Insurance.

All appeals by assignees regarding **decision point review, precertification,** or payment of medical bills must be submitted to **our** Plan Administrator for reconsideration as described above in Internal Appeal Process Requirements. Any other disputes and any disputes not resolved through the foregoing Internal Appeal Process must be submitted to **us** for a Second Level Internal Appeal as follows:

To initiate a Second Level Internal Appeal, the assignee shall submit written notice of the dispute and request an internal review via certified mail/return receipt requested or via courier that provides proof of delivery. Proof of receipt by **us** must be provided by the assignee at **our** request.

The assignee shall set forth in the written notice the basis of the appeal and the facts underlying the dispute. The assignee shall include copies of all relevant supporting documents, including, but not limited to, any unpaid medical bills for **medical expenses** that may be in dispute.

All Second Level Internal Appeal requests will be reviewed within 30 days from receipt of the notice and all supporting documents. A final decision will be communicated to the assignee in writing within 30 days of receipt of the request. During this time, the assignee shall cooperate with **us** in the investigation of the dispute and negotiate in good faith with **us** in an effort to resolve the dispute amicably.

If, despite completion of the Internal Appeal Process, the good faith efforts of both parties fail to bring resolution to the dispute, the assignee's only recourse will be to request Alternate Dispute Resolution in accordance with N.J.A.C. 11:3-5. Any request for Alternate Dispute Resolution may include a request for review by a Medical Review Organization as defined in N.J.A.C. 11: 3-5.2.

If the assignee retains counsel to represent them during the appeal process, they do so strictly at their own expense. No counsel fees or costs incurred during the appeal process shall be compensable.

The assignee agrees to indemnify and hold **us** harmless for any legal fees and/or costs incurred by **us** as a result of the assignee's failure to utilize the Internal Appeal Process prior to fulfilling the Alternate Dispute Resolution requirements of this policy. To the extent permitted by law, the results of said Alternate Dispute Resolution processes shall be final and binding, with no right of appeal.

PAYMENT OF PERSONAL INJURY PROTECTION BENEFITS

We may pay any **medical expenses** or **essential services** benefits to:

1. the **insured person**; or
2. any person or organization providing products or services qualifying for such benefits.

Payment of benefits directly to a **health care provider** does not constitute **our** acceptance of an assignment of benefits to that **health care provider**.

Insured persons may assign **medical expenses** benefits to **health care providers**. However, all such assignments are subject to the Assignment of Benefits section in this Part II.

In the event of the death of an **insured person**, **we** will pay:

1. any **medical expenses** payable, but not paid, prior to the **insured person's** death;
2. **death benefits** for a deceased **insured person** who, at the time of the accident, was in an occupational status resulting in the earning or producing of income; and
3. **funeral expense** benefits.

In the event of the death of an **insured person**, benefits will be paid as follows:

1. Any **medical expenses** will be paid to the **insured person's** estate.
2. Any **death benefits** will be paid to:
 - a. the surviving spouse or the surviving partner in a civil union recognized under New Jersey law;
 - b. the surviving children if there is no surviving spouse or surviving partner; or
 - c. the **insured person's** estate if there is no surviving spouse, surviving partner, or surviving children.
3. Any **essential services** benefits will be paid to the person who incurred the expense of providing the **essential services**.
4. Any **funeral expenses** will be paid to the **insured person's** estate.

PART III - UNINSURED/UNDERINSURED MOTORIST COVERAGE

INSURING AGREEMENT - UNINSURED/UNDERINSURED MOTORIST BODILY INJURY COVERAGE

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle** because of **bodily injury**:

1. sustained by an **insured person**;

2. caused by an accident; and
3. arising out of the ownership, maintenance, use, loading, or unloading of an **uninsured motor vehicle** or an **underinsured motor vehicle**.

We will pay under this Part III only after the limits of liability under all applicable bodily injury liability bonds and policies have been exhausted by payment of judgments or settlements.

Recovery of damages by an **insured person** under Uninsured/Underinsured Motorist Bodily Injury Coverage is subject to the limitation on lawsuit tort election under N.J.S.A. §39:6A-8.

INSURING AGREEMENT - UNINSURED/UNDERINSURED MOTORIST PROPERTY DAMAGE COVERAGE

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle** because of **property damage**:

1. caused by an accident; and
2. arising out of the ownership, maintenance, use, loading, or unloading of an **uninsured motor vehicle** or an **underinsured motor vehicle**.

NOTICE AND CONSENT PROVISIONS

An **insured person** must notify **us** in writing at least 30 days before entering into any settlement with the owner or operator of an **underinsured motor vehicle**, or that person's liability insurer. In order to preserve **our** right of subrogation, **we** may elect to pay any sum offered in settlement by, or on behalf of, the owner or operator of an **underinsured motor vehicle**. If **we** do this, the **insured person** agrees to assign to **us** all rights that the **insured person** has against the owner or operator of the **underinsured motor vehicle**, to the extent of **our** payment.

Any judgment or settlement for damages against an owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle** that arises out of a lawsuit brought without **our** written consent is not binding on **us**.

ADDITIONAL DEFINITIONS

When used in this Part III:

1. "**Insured person**" means:
 - a. **you** or a **relative**;
 - b. any person while operating a **covered auto** with the permission of **you** or a **relative**;
 - c. any person **occupying**, but not operating, a **covered auto**; and
 - d. any person who is entitled to recover damages covered by this Part III because of **bodily injury** sustained by a person described in a, b, or c above.

2. **“Property damage”** means:
 - a. physical damage to, or destruction or loss of use of, a **covered auto** for which coverage has been purchased under this Part III; and
 - b. physical damage to, or destruction of, property owned by an **insured person** and contained in the **covered auto** at the time of the accident.
3. **“Underinsured motor vehicle”** means a land motor vehicle or trailer of any type to which a bodily injury liability bond or policy, or a Basic Automobile Insurance Policy issued pursuant to New Jersey law, applies at the time of the accident, but:
 - a. with respect to property damage, the sum of all applicable limits of liability for property damage is less than the coverage limit for Uninsured/Underinsured Motorist Property Damage Coverage shown on the **declarations page**; or
 - b. with respect to bodily injury, the sum of all applicable limits of liability for bodily injury is less than the coverage limit for Uninsured/Underinsured Motorist Bodily Injury Coverage shown on the **declarations page**.

An **“underinsured motor vehicle”** does not include any vehicle or equipment:

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
 - b. owned by any governmental unit or agency;
 - c. operated on rails or crawler treads;
 - d. designed mainly for use off public roads, while not on public roads;
 - e. while located for use as a residence or stationary structure;
 - f. that is a **covered auto**; or
 - g. that is an **uninsured motor vehicle**.
4. **“Uninsured motor vehicle”** means a land motor vehicle or trailer of any type:
 - a. to which no bodily injury liability bond or policy applies at the time of the accident;
 - b. to which a bodily injury liability bond or policy applies at the time of the accident, but the bonding or insuring company:
 - (i) denies coverage;
 - (ii) is or becomes insolvent; or
 - (iii) is under the control of the Commissioner of Banking and Insurance for the purpose of liquidation;
 - c. to which only a special automobile insurance policy issued pursuant to section 45 of P.L.2003, c.89 (N.J.S.A. §39:6A-3.3) applies; or
 - d. that, only with respect to Uninsured/Underinsured Motorist Bodily Injury Coverage, is a hit-and-run vehicle whose owner or operator cannot be identified and that causes an accident resulting in **bodily injury to you** or a **relative**, provided that the person claiming coverage, or someone on his or her behalf, reports the accident to the police or civil authority within 24 hours or as soon as practicable after the accident.

An **“uninsured motor vehicle”** does not include any vehicle or equipment:

- a. owned by **you** or a **relative** or furnished or available for the regular use of **you** or a **relative**;
- b. owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer that is or becomes insolvent;
- c. owned by any governmental unit or agency;

- d. operated on rails or crawler treads;
- e. designed mainly for use off public roads, while not on public roads;
- f. while located for use as a residence or stationary structure;
- g. that, only with respect to Uninsured/Underinsured Motorist Property Damage Coverage, is a hit-and-run vehicle that causes an accident and whose owner or operator cannot be identified;
- h. that is a **covered auto**; or
- i. that is an **underinsured motor vehicle**.

EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART III.

Coverage under this Part III will not apply:

1. to **bodily injury** sustained by any person while using or **occupying** a **covered auto** being used:
 - a. to carry persons or property for compensation or a fee; or
 - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.
 This exclusion does not apply to shared-expense car pools;
2. to **bodily injury** sustained by **you** or a **relative** while using any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
3. directly or indirectly to benefit any insurer or self-insurer under any of the following or similar laws:
 - a. workers' compensation law; or
 - b. disability benefits law;
4. to non-economic damages resulting from **bodily injury** caused by an accident involving an **uninsured motor vehicle** or an **underinsured motor vehicle** unless the injured **insured person** has a legal right to recover non-economic damages under the New Jersey Automobile Repair Reform Act. The injured **insured person's** legal right to recover non-economic damages under the New Jersey Automobile Repair Reform Act will be determined by the limitation on lawsuit tort election, if any, applicable to that injured **insured person**;
5. to **bodily injury** sustained by **you** while **occupying** any motor vehicle owned by **you**, or available for **your** regular and frequent use, and:
 - a. insured under a Basic Automobile Insurance Policy issued in accordance with New Jersey law or regulation; or
 - b. required to be insured in accordance with New Jersey law or regulation, but that is not insured for this coverage or any similar coverage;
6. to **bodily injury** sustained by any **relative** while **occupying** any motor vehicle owned by, or available for the regular and frequent use of, **you** or that **relative**, and:
 - a. insured under a Basic Automobile Insurance Policy issued in accordance with New Jersey law or regulation; or
 - b. required to be insured in accordance with New Jersey law or regulation, but that is not insured for this coverage or any similar coverage;
7. to any punitive or exemplary damages; or

8. to **bodily injury** sustained by any person if that person or the legal representative of that person settles without **our** written consent.

Coverage under this Part III will not apply to **property damage**:

1. that occurs while a **covered auto** is being used:
 - a. to carry persons or property for compensation or a fee; or
 - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.This exclusion does not apply to shared-expense car pools;
2. resulting from, or sustained during practice or preparation for:
 - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
 - b. any driving activity conducted on a permanent or temporary racetrack or race-course;
3. if the **covered auto**:
 - a. is afforded coverage under a nuclear energy liability insurance contract; or
 - b. would be afforded coverage under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability; or
4. unless there is actual physical contact between the **uninsured motor vehicle** and the **covered auto**.

Coverage under this Part III will not apply to damage to a trailer.

LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for Uninsured/Underinsured Motorist Coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for “each person” is the most **we** will pay for all damages due to **bodily injury** to one person;
2. subject to the “each person” limit, the amount shown for “each accident” is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for “each accident” on the **declarations page** is the most **we** will pay for the aggregate of all **property damage** caused by any one accident.

The “each person” limit of liability includes the total of all claims made for **bodily injury** to an **insured person** and all claims of others derived from such **bodily injury**, including, but not limited to, emotional injury or mental anguish resulting from the **bodily injury** of another or from witnessing the **bodily injury** to another, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that “combined single limit” or “CSL” applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this total limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

The limits of liability for **bodily injury** under this Part III will be reduced by all sums paid because of **bodily injury** by or on behalf of any persons or organizations that may be legally responsible.

Any damages payable for **bodily injury** under this Part III will be reduced by all sums paid or payable under any disability benefits or similar law.

We will not pay under this Part III any expenses paid or payable under Part II - Personal Injury Protection (PIP) Coverage.

If an **insured person** is:

1. not insured as a named insured or spouse under this policy or any other policy;
2. not insured as a **relative** under this policy or any other policy; and
3. not insured in any other way under any other policy;

then any recovery for damages for **bodily injury** for that **insured person** may equal but not exceed the mandatory minimum financial responsibility limits specified by the laws of New Jersey.

The limit of liability for **property damage** to a **covered auto** is the lowest of:

1. the actual cash value of the **covered auto** at the time of the accident;
2. the amount necessary to replace the **covered auto**;
3. the amount necessary to repair the **covered auto** to its pre-loss condition; or
4. the limit of liability shown on the **declarations page** for Uninsured/Underinsured Motorist Property Damage Coverage.

The limit of liability for **property damage** under this Part III will be reduced by all sums paid because of **property damage** by or on behalf of any persons or organizations that may be legally responsible.

We shall not pay for **property damage** under this Part III to the extent that such damages are paid or payable under any other property damage or physical damage insurance, including all sums paid or payable under Part IV - Damage To A Vehicle.

Payments for **property damage** under this Part III are subject to the following provisions:

1. any amount payable under this Part III for **property damage** shall be subject to the deductible shown on the **declarations page**; and
 2. no more than one deductible under this Part III shall be applied to any one accident.
- No one will be entitled to duplicate payments for the same elements of damages.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

OTHER INSURANCE

If there is other applicable insurance available to an **insured person** under one or more policies or provisions of coverage that is the same or similar to insurance provided under this Part III:

1. Any recovery for damages for **bodily injury** or **property damage** under all such policies or provisions of coverage may equal but not exceed the highest applicable limit for any one vehicle under any insurance providing coverage on either a primary or excess basis.

However, if an **insured person** is:

- a. a named insured under one or more policies providing similar coverage; and
- b. not **occupying** a vehicle owned by that named insured;

then any recovery for damages for **bodily injury** or **property damage** for the **insured person** may equal but not exceed the highest applicable limit for any one vehicle under any insurance providing coverage to the **insured person** as a named insured.

If an **insured person** is:

- a. not a named insured under this policy or any other policy; and
- b. insured as a spouse or relative under one or more policies providing similar coverage;

then any recovery for damages for **bodily injury** or **property damage** for that **insured person** may equal but not exceed the highest applicable limit for any one vehicle under any insurance providing coverage to that **insured person** as a spouse or relative.

2. Any insurance **we** provide with respect to a vehicle not owned by **you** shall be excess over any other collectible insurance providing coverage on a primary basis.
3. If the coverage under this policy is provided:
 - a. on a primary basis, **we** will pay only **our** share of the loss that must be paid under insurance providing coverage on a primary basis. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits of liability for coverage provided on a primary basis; or
 - b. on an excess basis, **we** will pay only **our** share of the loss that must be paid under insurance providing coverage on an excess basis. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits of liability for coverage provided on an excess basis.
4. If there is any applicable out-of-state uninsured motorist or underinsured motorist coverage, any insurance **we** provide will be excess over any such collectible insurance.

ARBITRATION

If **we** and an **insured person** cannot agree on:

1. the legal liability of the operator or owner of an **uninsured motor vehicle** or an **underinsured motor vehicle**; or

2. the amount of the damages recoverable by the **insured person**; this will be determined by arbitration if **we** and the **insured person** mutually agree to arbitration prior to the expiration of the bodily injury statute of limitations in the state in which the accident occurred.

In the event of arbitration, each party will select an arbitrator. The two arbitrators will select a third. If the two arbitrators cannot agree on a third arbitrator within 30 days, then on joint application by the **insured person** and **us**, the third arbitrator will be appointed by a court having jurisdiction.

Each party will pay the costs and fees of its arbitrator and any other expenses it incurs. The costs and fees of the third arbitrator will be shared equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the **insured person** resides. Local rules of procedure and evidence will apply.

A decision agreed to by two of the arbitrators will be binding with respect to a determination of:

1. the legal liability of the operator or owner of an **uninsured motor vehicle** or an **underinsured motor vehicle**; and
2. the amount of the damages recoverable by the **insured person**.

The arbitrators will have no authority to award an amount in excess of the limit of liability. The decision of the arbitrators is binding only if the amount of the award does not exceed the minimum limit of liability specified by the financial responsibility laws of the state listed on **your** application as **your** residence. If the award of the arbitrators exceeds this minimum limit, either party may demand the right to a trial on all issues. This demand must be made in writing within 30 days of the arbitrators' decision. If the demand is not made within 30 days, the amount of damages agreed to by the arbitrators will be binding.

If either party demands a trial within 30 days of the issuance of the arbitration decision, the arbitration decision shall be vacated as to both liability and damages and both the issue of liability and the amount of damages will be decided at trial.

We and an **insured person** may mutually agree to an alternate form of arbitration.

PART IV - DAMAGE TO A VEHICLE

INSURING AGREEMENT - COLLISION COVERAGE

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
2. **non-owned auto**;
and its **custom parts or equipment**, resulting from **collision**.

In addition, **we** will pay the reasonable cost to replace any child safety seat damaged in an accident to which this coverage applies.

INSURING AGREEMENT - COMPREHENSIVE COVERAGE

If **you** pay the premium for this coverage, **we** will pay for sudden, direct, and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
2. **non-owned auto**;
and its **custom parts or equipment**, that is not caused by **collision**.

A loss not caused by **collision** includes:

1. contact with an animal (including a bird);
2. explosion or earthquake;
3. fire;
4. malicious mischief or vandalism;
5. missiles or falling objects;
6. riot or civil commotion;
7. theft or larceny;
8. windstorm, hail, water, or flood; or
9. breakage of glass not caused by **collision**.

In addition, **we** will pay for:

1. reasonable transportation expenses incurred by **you** if a **covered auto** is stolen;
and
2. loss of use damages that **you** are legally liable to pay if a **non-owned auto** is stolen.

A combined maximum of \$900, not exceeding \$30 per day, will apply to these additional benefits. The additional benefit for transportation expenses will not apply if **you** purchased Rental Reimbursement Coverage for the stolen **covered auto**.

Coverage for transportation expenses and loss of use damages begins 48 hours after **you** report the theft to **us** and ends the earliest of:

1. when the **auto** has been recovered and returned to **you** or its owner;
2. when the **auto** has been recovered and repaired;
3. when the **auto** has been replaced; or
4. 72 hours after **we** make an offer to settle the loss if the **auto** is deemed by **us** to be a total loss.

We must receive written proof of transportation expenses and loss of use damages.

INSURING AGREEMENT - ADDITIONAL CUSTOM PARTS OR EQUIPMENT COVERAGE

We will pay for sudden, direct, and accidental loss to **custom parts or equipment** on a **covered auto** for which this coverage has been purchased. This coverage applies

only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages. This coverage applies in addition to any coverage automatically provided for **custom parts or equipment** under Comprehensive Coverage or Collision Coverage.

INSURING AGREEMENT - RENTAL REIMBURSEMENT COVERAGE

We will reimburse rental charges incurred when **you** rent an **auto** from a rental agency or auto repair shop due to a loss to a **covered auto** for which Rental Reimbursement Coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

Additional fees or charges for insurance, damage waivers, optional equipment, fuel, or accessories are not covered.

This coverage is limited to the each day limit shown on the **declarations page** for a maximum of 30 days.

If Rental Reimbursement Coverage applies, no other coverage under this policy for rental expenses will apply.

Rental charges will be reimbursed beginning:

1. when the **covered auto** cannot be driven due to a loss; or
2. if the **covered auto** can be driven, when **you** deliver the **covered auto** to an auto repair shop or one of **our** Claims Service Centers for repairs due to the loss;

and ending the earliest of:

1. when the **covered auto** has been returned to **you**;
2. when the **covered auto** has been repaired;
3. when the **covered auto** has been replaced;
4. 72 hours after **we** make an offer to settle the loss if the **covered auto** is deemed by **us** to be a total loss; or
5. when **you** incur 30 days worth of rental charges.

You must provide **us** written proof of **your** rental charges to be reimbursed.

INSURING AGREEMENT - LOAN/LEASE PAYOFF COVERAGE

If **you** pay the premium for this coverage, and the **covered auto** for which this coverage was purchased is deemed by **us** to be a total loss, **we** will pay, in addition to any amounts otherwise payable under this Part IV, the difference between:

1. the actual cash value of the **covered auto** at the time of the total loss; and
2. any greater amount the owner of the **covered auto** is legally obligated to pay under a written loan or lease agreement to which the **covered auto** is subject at the time of the total loss, reduced by:
 - a. unpaid finance charges or refunds due to the owner for such charges;

- b. excess mileage charges or charges for wear and tear;
- c. charges for extended warranties or refunds due to the owner for extended warranties;
- d. charges for credit insurance or refunds due to the owner for credit insurance;
- e. past due payments and charges for past due payments; and
- f. collection or repossession expenses.

However, **our** payment under this coverage shall not exceed the limit of liability shown on the **declarations page**. The limit of liability is a percentage of the actual cash value of the **covered auto** at the time of the loss.

This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

ADDITIONAL DEFINITIONS

When used in this Part IV:

1. **“Collision”** means the upset of a vehicle or its impact with another vehicle or object.
2. **“Custom parts or equipment”** means equipment, devices, accessories, enhancements, and changes, other than those that are offered by the manufacturer specifically for that **auto** model, or that are installed by the auto dealership as part of the original sale of a new **auto**, that:
 - a. are permanently installed or attached; and
 - b. alter the appearance or performance of the **auto**.
3. **“Mechanical parts”** means operational parts on a vehicle that wear out over time or have a finite useful life or duration typically shorter than the life of the vehicle as a whole. **Mechanical parts** do not include external crash parts, wheels, paint, or windshields and other glass.
4. **“Non-owned auto”** means an **auto** that is not owned by or furnished or available for the regular use of **you** or a **relative** while in the custody of or being operated by **you** or a **relative** with the permission of the owner of the **auto** or the person in lawful possession of the **auto**.
5. **“Property damage”** means physical damage to, destruction of, or loss of use of, tangible property.

EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART IV.

Coverage under this Part IV will not apply for loss:

1. to any vehicle while being used:
 - a. to carry persons or property for compensation or a fee; or
 - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.
 This exclusion does not apply to shared-expense car pools;

2. to a **non-owned auto** while being maintained or used by a person while employed or engaged in any **auto business**;
3. to any vehicle resulting from, or sustained during practice or preparation for:
 - a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
 - b. any driving activity conducted on a permanent or temporary racetrack or race-course;
4. to any vehicle for which insurance:
 - a. is afforded under a nuclear energy liability insurance contract; or
 - b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
5. to any vehicle caused by an intentional act committed by or at the direction of **you**, a **relative**, or the owner of a **non-owned auto**, even if the actual damage is different than that which was intended or expected;
6. to a **covered auto** while it is leased or rented to others. This exclusion does not apply to the operation of a **covered auto** by **you** or a **relative**;
7. due to destruction or confiscation by governmental or civil authorities of any vehicle because **you** or any **relative** engaged in illegal activities;
8. to any vehicle that is due and confined to:
 - a. wear and tear;
 - b. freezing;
 - c. mechanical, electrical, or electronic breakdown or failure; or
 - d. road damage to tires.

This exclusion does not apply if the damage results from the theft of a vehicle;
9. to portable equipment, devices, accessories, and any other personal effects that are not permanently installed. This includes, but is not limited to:
 - a. tapes, compact discs, cassettes, DVDs, and other recording or recorded media;
 - b. any case or other container designed for use in storing or carrying tapes, compact discs, cassettes, DVDs, or other recording or recorded media;
 - c. any device used for the detection or location of radar, laser, or other speed measuring equipment or its transmissions; and
 - d. CB radios, telephones, two-way mobile radios, DVD players, personal computers, personal digital assistants, or televisions;
10. to any vehicle for diminution of value;
11. to a **covered auto** prior to inspection by **us** or **our** representative as required by New Jersey law;
12. to any vehicle caused directly or indirectly by:
 - a. war (declared or undeclared) or civil war;
 - b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or
 - c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;
13. to any vehicle caused directly or indirectly by:
 - a. any accidental or intentional discharge, dispersal or release of radioactive, nuclear, pathogenic or poisonous biological material; or

- b. any intentional discharge, dispersal or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
14. to any vehicle intended by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, or the owner of a **non-owned auto**. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

LIMITS OF LIABILITY

1. The limit of liability for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** is the lowest of:
 - a. the actual cash value of the stolen or damaged property at the time of the loss reduced by the applicable deductible;
 - b. the amount necessary to replace the stolen or damaged property reduced by the applicable deductible;
 - c. the amount necessary to repair the damaged property to its pre-loss condition reduced by the applicable deductible; or
 - d. the Stated Amount shown on the **declarations page** for that **covered auto**;However, the most **we** will pay for loss to:
 - a. **custom parts or equipment** is \$1,000 unless **you** purchased Additional Custom Parts or Equipment Coverage (“ACPE”). If **you** purchased ACPE, the most **we** will pay is \$1,000 plus the amount of ACPE **you** purchased; and
 - b. a **trailer** is the limit of liability shown on the **declarations page** for that **trailer**. If the **trailer** is not shown on the **declarations page**, the limit of liability is \$500.
2. Payments for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** are subject to the following provisions:
 - a. If coverage applies to a **non-owned auto**, **we** will provide the broadest coverage applicable to any **covered auto** shown on the **declarations page**.
 - b. If **you** have elected a Stated Amount for a **covered auto**, the Stated Amount is the most **we** will pay for all loss to that **covered auto**, including its **custom parts or equipment**.
 - c. Coverage for **custom parts or equipment** will not cause **our** limit of liability for loss to an **auto** under this Part IV to be increased to an amount in excess of the actual cash value of the **auto**, including its **custom parts or equipment**.
 - d. In determining the amount necessary to repair damaged property to its pre-loss condition, the amount to be paid by **us**:
 - (i) will not exceed the prevailing competitive labor rates charged in the area where the property is to be repaired and the cost of repair or replacement parts and equipment, as reasonably determined by **us**; and
 - (ii) will be based on the cost of repair or replacement parts and equipment which may be new, reconditioned, remanufactured, or used, including, but not limited to:
 - (a) original manufacturer parts or equipment; and
 - (b) nonoriginal manufacturer parts or equipment.
 - e. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, the total cost of necessary repair or replace-

ment may be reduced by unrepaired prior damage. Unrepaired prior damage includes broken, cracked, or missing parts; rust; dents; scrapes; gouges; and peeling paint. The reduction for unrepaired prior damage is the cost of labor, parts, and materials necessary to repair or replace damage, deterioration, defects, or wear and tear on exterior body parts, windshields and other glass, wheels, and paint, that existed prior to the accident and that is eliminated as a result of the repair or replacement of property damaged in the loss.

- f. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1, an adjustment may be made for betterment or depreciation and physical condition on:
 - (i) batteries;
 - (ii) tires;
 - (iii) engines and transmissions, if the engine has greater than 80,000 miles; and
 - (iv) any other **mechanical parts** that are nonfunctioning or inoperative.

We will not make an adjustment for the labor costs associated with the replacement or repair of these parts.
 - g. The actual cash value is determined by the market value, age, and condition of the vehicle at the time the loss occurs.
3. Any amount paid or payable to a person under this Part IV for **property damage** to an **auto** shall be reduced by any amount paid for that **property damage** to the **auto** under Part III - Uninsured/Underinsured Motorist Property Damage Coverage.
 4. No deductible will apply to a loss to window glass when the glass is repaired instead of replaced.
 5. Duplicate recovery for the same elements of damages is not permitted.

APPRAISAL

If **we** cannot agree with **you** on the actual cash value of the stolen or damaged property at the time of the loss (1.a. in the Limits of Liability section above), then **we** or **you** may demand an appraisal. Such a demand shall be made in writing. Within 30 days of any demand for an appraisal, each party shall appoint a competent appraiser and shall notify the other party of that appraiser's identity. The appraisers will determine the actual cash value of the stolen or damaged property at the time of the loss. If they fail to agree, the disagreement will be submitted to a qualified umpire chosen by the appraisers. If the two appraisers are unable to agree upon an umpire within 15 days, **we** or **you** may request that a judge of a court of record, in the county where **you** reside, select an umpire. The appraisers and umpire will determine the actual cash value. The actual cash value agreed to by both appraisers, or by one appraiser and the umpire, will be binding. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses. All other expenses of the appraisal, including payment of the umpire if one is selected, will be shared equally between **us** and **you**. Neither **we** nor **you** waive any rights under this policy by agreeing to an appraisal of the actual cash value.

PAYMENT OF LOSS

We may, at **our** option:

1. pay for the loss in money; or
2. repair or replace the damaged or stolen property.

At **our** expense, **we** may return any recovered stolen property to **you** or to the address shown on the **declarations page**, with payment for any damage resulting from the theft. **We** may keep all or part of the property at the agreed or appraised value.

We may settle any loss with **you** or the owner or lienholder of the property.

NO BENEFIT TO BAILEE

Coverage under this Part IV will not directly or indirectly benefit any carrier or other bailee for hire.

LOSS PAYABLE CLAUSE

Payment under this Part IV for a loss to a **covered auto** will be made according to **your** interest and the interest of any lienholder shown on the **declarations page** or designated by **you**. At **our** option, payment may be made to both jointly, or to either separately. Either way, **we** will protect the interest of both. However, if the **covered auto** is not a total loss, **we** may make payment to **you** and the repairer of the **auto**.

Protection of the lienholder's financial interest will not be affected by any act or omission by any person entitled to coverage under this policy. However, protection under this clause does not apply in any case of conversion, embezzlement, or secretion of the **covered auto** by or at the direction of **you**, a **relative**, or the owner of the **covered auto**.

If this policy is cancelled, nonrenewed, or voided, the interest of any lienholder under this agreement will also terminate.

When **we** make payment to a lienholder for loss under this policy, **we** will be subrogated to the rights of the party **we** pay, to the extent of **our** payment. When **we** pay a lienholder for a loss for which **you** are not covered, **we** are entitled to the lienholder's right of recovery against **you** to the extent of **our** payment. **Our** right to subrogation will not impair the lienholder's right to recover the full amount of its claim.

OTHER SOURCES OF RECOVERY

If other sources of recovery also cover the loss, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a **non-owned auto**, or **trailer** not

shown on the **declarations page**, will be excess over any other collectible source of recovery including, but not limited to:

1. any coverage provided by the owner of the **non-owned auto** or **trailer**;
2. any other applicable physical damage insurance; and
3. any other source of recovery applicable to the loss.

PART V - ROADSIDE ASSISTANCE COVERAGE

INSURING AGREEMENT

If **you** pay the premium for this coverage, **we** will pay for **our** authorized service representative to provide the following services when necessary due to a **covered emergency**:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
2. labor on a **covered disabled auto** at the place of disablement.

If a **covered disabled auto** is towed to any place other than the nearest qualified repair facility, **you** will be responsible for any additional charges incurred.

ADDITIONAL DEFINITIONS

When used in this Part V:

1. "**Covered disabled auto**" means a **covered auto** for which this coverage has been purchased that sustains a **covered emergency**.
2. "**Covered emergency**" means a disablement that is a result of:
 - a. mechanical or electrical breakdown;
 - b. battery failure;
 - c. insufficient supply of fuel, oil, water, or other fluid;
 - d. flat tire;
 - e. lock-out; or
 - f. entrapment in snow, mud, water, or sand, within 100 feet of a road or highway.

EXCLUSIONS - READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART V.

Coverage under this Part V will not apply to:

1. the cost of purchasing parts, fluid, lubricants, fuel, or replacement keys, or the labor to make replacement keys;
2. installation of products or material not related to the disablement;
3. labor not related to the disablement;
4. labor on a **covered disabled auto** for any time period in excess of 60 minutes per disablement;
5. towing or storage related to impoundment, abandonment, illegal parking, or other violations of law;
6. assistance with jacks, levelers, airbags, or awnings;
7. towing from a service station, garage, or repair shop;

8. labor or repair work performed at a service station, garage, or repair shop;
9. auto storage charges;
10. a second service call or tow for a single disablement;
11. disablement that occurs on roads not regularly maintained, sand beaches, open fields, or areas designated as not passable due to construction, weather, or earth movement;
12. mounting or removing of snow tires or chains;
13. tire repair;
14. repeated service calls for a **covered disabled auto** in need of routine maintenance or repair;
15. disablement that results from an intentional or willful act or action by **you**, a **relative**, or the operator of a **covered disabled auto**; or
16. a trailer.

UNAUTHORIZED SERVICE PROVIDER

When service is rendered by a provider in the business of providing roadside assistance and towing services, other than one of **our** authorized service representatives, **we** will pay only reasonable charges, as determined by **us**, for:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
2. labor on a **covered disabled auto** at the place of disablement;

which is necessary due to a **covered emergency**.

OTHER INSURANCE

Any coverage provided under this Part V for service rendered by an unauthorized service provider will be excess over any other collectible insurance or towing protection coverage.

PART VI - DUTIES IN CASE OF AN ACCIDENT OR LOSS

For coverage to apply under this policy, **you** or the person seeking coverage must promptly report each accident or loss even if **you** or the person seeking coverage is not at fault. **You** or the person seeking coverage must provide **us** with all accident or loss information including time, place, and how the accident or loss happened. **You** or the person seeking coverage must also obtain and provide **us** the names and addresses of all persons involved in the accident or loss, the names and addresses of any witnesses, and the license plate numbers of the vehicles involved.

If **you** or the person seeking coverage cannot identify the owner or operator of a vehicle involved in the accident, or if theft or vandalism has occurred, **you** or the person seeking coverage must notify the police within 24 hours or as soon as practicable.

A person seeking coverage under Part III - Uninsured/Underinsured Motorist Coverage must make all reasonable efforts to ascertain the identity of the motor vehicle and of the owner and operator of the motor vehicle.

A person seeking coverage must:

1. cooperate with **us** in any matter concerning a claim or lawsuit;
2. provide any written proof of loss **we** may reasonably require;
3. allow **us** to take signed and recorded statements, including sworn statements and examinations under oath, which **we** may conduct outside the presence of **you** or any other person seeking coverage, and answer all reasonable questions **we** may ask as often as **we** may reasonably require;
4. promptly call to notify **us** about any claim or lawsuit and send **us** any and all legal papers relating to the claim or suit;
5. attend hearings and trials as **we** require;
6. take reasonable steps after a loss to protect the **covered auto**, or any other vehicle for which coverage is sought, from further loss. **We** will pay reasonable expenses incurred in providing that protection. If failure to provide such protection results in further loss, any additional damages will not be covered under this policy;
7. allow **us** to have the damaged **covered auto**, or any other damaged vehicle for which coverage is sought, inspected and appraised before its repair or disposal;
8. submit to medical examinations at **our** expense by doctors **we** select as often as **we** may reasonably require; and
9. authorize **us** to obtain medical and other records.

A person seeking coverage under Part II - Personal Injury Protection (PIP) Coverage must provide **us** written notice of a claim as soon as practicable after an accident.

PART VII - GENERAL PROVISIONS

POLICY PERIOD AND TERRITORY

This policy applies only to accidents and losses occurring during the policy period shown on the **declarations page** and that occur within a state, territory, or possession of the United States of America, or a province or territory of Canada, or while a **covered auto** is being transported between their ports. However, with respect to Part II - Personal Injury Protection (PIP) Coverage only, this policy applies worldwide.

CHANGES

This policy contract, along with **your** insurance application and the coverage selection form (which are made a part of this policy as if attached hereto), the **declarations page**, and all endorsements to this policy issued by **us**, contain all the agreements between **you** and **us**. Subject to the following, the terms of this policy may not be changed or waived except by an endorsement issued by **us**.

The premium for this policy is based on information **we** received from **you** and other sources. **You** agree to cooperate with **us** in determining if this information is correct and complete, and to notify **us** if it changes during the policy period. If

this information is incorrect, incomplete, or changes during the policy period, **you** agree that **we** may adjust **your** premium accordingly. Changes that may result in a premium adjustment are contained in **our** rates and rules. These include, but are not limited to, **you** or a **relative** obtaining a driver's license or operator's permit, or changes in:

1. the number, type, or use classification of **covered autos**;
2. operators using **covered autos**;
3. an operator's marital status;
4. the place of principal garaging of any **covered auto**;
5. coverage, deductibles, or limits of liability; or
6. rating territory or discount eligibility.

The coverage provided in **your** policy may be changed only by the issuance of a new policy or an endorsement by **us**. However, if during the policy period **we** broaden any coverage afforded under the current edition of **your** policy without additional premium charge, that change will automatically apply to **your** policy as of the date the coverage change is implemented in **your** state.

If **you** ask **us** to delete a vehicle from this policy, no coverage will apply to that vehicle as of the date and time **you** ask **us** to delete it.

DUTY TO REPORT CHANGES

You must promptly notify **us** when:

1. **your** mailing or residence address changes;
2. the principal garaging address for a **covered auto** changes;
3. there is a change with respect to the residents in **your** household or the persons who regularly operate a **covered auto**;
4. an operator's marital status changes; or
5. **you** or a **relative** obtain a driver's license or operator's permit.

SETTLEMENT OF CLAIMS

We may use estimating, appraisal, or injury evaluation systems to assist **us** in adjusting claims under this policy and to assist **us** in determining the amount of damages, expenses, or loss payable under this policy. Such systems may be developed by **us** or a third party and may include computer software, databases, and specialized technology.

TERMS OF POLICY CONFORMED TO STATUTES

If any provision of this policy fails to conform to the statutes of the state listed on **your** application as **your** residence, the provision shall be deemed amended to conform to such statutes. All other provisions shall be given full force and effect. Any disputes as to the coverages provided or the provisions of this policy shall be governed by the law of the state listed on **your** application as **your** residence.

TRANSFER OF INTEREST

The rights and duties under this policy may not be transferred to another person without **our** written consent. However, if a named insured shown on the **declarations page** dies, this policy will provide coverage until the end of the policy period for the legal representative of the named insured, while acting as such, and for persons covered under this policy on the date of the named insured's death.

FRAUD OR MISREPRESENTATION

This policy was issued in reliance upon the information provided on **your** insurance application and the coverage selection form. **We** will not provide coverage and may void this policy if **you**:

1. made incorrect statements or representations to **us** with regard to any material fact or circumstance;
2. concealed or misrepresented any material fact or circumstance; or
3. engaged in fraudulent conduct;

at the time of application or at the time of renewal. This means that **we** will not be liable for any claims or damages that would otherwise be covered.

However, if **we** void this policy, this shall not affect coverage:

1. under Part I - Liability To Others up to the minimum limit mandated by the motor vehicle financial responsibility law of New Jersey; or
2. under Part II - Personal Injury Protection (PIP) Coverage for any injured person who has not knowingly concealed or misrepresented any material fact or circumstance;

for claims or damages arising from an accident that occurs before **we** notify the named insured that the policy is void. This means that **we** will not be liable for any claims or damages except as indicated in 1. and 2. above, nor will **we** be responsible for any amounts in excess of the minimum required limits of liability coverage.

We may deny coverage for an accident or loss, for which coverage is sought under this policy, if **you** or a person seeking coverage has knowingly concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct, in connection with the presentation or settlement of a claim.

PAYMENT OF PREMIUM AND FEES

If **your** initial premium payment is by check, draft, electronic funds transfer, or similar form of remittance, coverage under this policy is conditioned on payment to **us** by the financial institution. If the financial institution upon presentment does not honor the check, draft, electronic funds transfer, or similar form of remittance, this policy may, at **our** option, be deemed void from its inception. This means **we** will not be liable under this policy for any claims or damages that would otherwise be covered if the check, draft, electronic funds transfer, or similar form of remittance had been honored by the

financial institution. Any action by **us** to present the remittance for payment more than once shall not affect **our** right to void this policy.

However, if **we** deem this policy void from its inception, this shall not affect coverage:

1. under Part I - Liability To Others up to the minimum limit mandated by the financial responsibility law of the state shown on **your** application as **your** residence;
2. under Part II - Personal Injury Protection (PIP) Coverage for any injured person who did not issue such check, draft, or remittance; or
3. under Part III - Uninsured/Underinsured Motorist Coverage for any injured person who did not issue such check, draft, or remittance;

for claims or damages arising from an accident that occurs before **we** notify the named insured that the policy is void, provided such claim or damage would have been covered if the check, draft, or remittance had been honored upon presentment.

In addition to premium, fees may be charged on **your** policy. **We** may charge fees for installment payments, late payments, and other transactions. Payments made on **your** policy will be applied first to fees, then to premium due.

CANCELLATION

You may cancel this policy during the policy period by calling or writing **us** and stating the future date **you** wish the cancellation to be effective.

We may cancel this policy during the policy period by mailing a notice of cancellation to the named insured shown on the **declarations page** at the last known address appearing in **our** records.

We will give at least 15 days notice of cancellation if the policy is cancelled for nonpayment of premium.

We will give at least 20 days notice of cancellation in all other cases.

We may cancel this policy for any reason if the notice is mailed within the first 60 days of the initial policy period if **we** determine that the named insured does not meet **our** underwriting rules.

After this policy is in effect for more than 60 days, or if this is a renewal or continuation policy, **we** may cancel only for one or more of the following reasons:

1. nonpayment of premium;
2. **you** knowingly provide materially false or misleading information in connection with any application for insurance, renewal of insurance, or claim for insurance benefits under a policy;
3. the driver's license or motor vehicle registration of **you**, a **relative**, or any other person who customarily operates a **covered auto**, has been suspended or revoked during the policy period or, if the policy is a renewal, during its policy period;

4. **your** place of legal residence or the state of registration or license of a **covered auto** is changed to a state or country in which **we** do not accept applications for the insurance provided by this policy;
5. **we** have agreed to issue a new policy within the same or an affiliated company; or
6. any other reason permitted by law.

Proof of mailing will be sufficient proof of notice. If this policy is cancelled, coverage will not be provided as of the effective date and time shown in the notice of cancellation. For purposes of cancellation, this policy is neither severable nor divisible. If this policy is cancelled, the cancellation will be effective for all coverages provided under the policy, for all persons and all vehicles, even if the reason for cancellation relates only to a policy or vehicle change requested by **you** after the original issuance of this policy.

CANCELLATION REFUND

Upon cancellation, **you** may be entitled to a premium refund. However, **our** making or offering of a refund is not a condition of cancellation.

If this policy is cancelled, any refund due will be computed on a daily pro rata basis.

NOTICE TO AGENT OR INSURER

Notice given by or on behalf of an insured person to any of **our** authorized agents is deemed notice to **us** if the notice sufficiently identifies the insured person.

NONRENEWAL

If neither **we** nor one of **our** affiliates offers to renew or continue this policy, **we** will mail notice of nonrenewal to the named insured shown on the **declarations page** at the last known address appearing in **our** records. Proof of mailing will be sufficient proof of notice. Notice will be mailed at least 60 days before the end of the policy period.

AUTOMATIC TERMINATION

If **we** or an affiliate offers to renew or continue this policy and **you** or **your** representative does 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 will mean that **you** have not accepted **our** offer.

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

If a **covered auto** is sold or transferred to someone other than **you** or a **relative**, any insurance provided by this policy will terminate as to that **covered auto** on the effective date of the sale or transfer.

NEW JERSEY MANDATORY INSPECTION

We may be required, or have the right, to inspect an **auto** insured or intended to be insured under this policy before any coverage under Part IV - Damage To A Vehicle shall become effective. When **we** require an inspection, **you** shall cooperate and make the **auto** available for inspection.

We do not provide coverage under Part IV - Damage To A Vehicle for a **replacement auto** or for an **additional auto**, as those items are described in General Definitions 9. and 1., respectively, of this policy, until after **you** notify **us** and request coverage for that **auto**.

However, the previous paragraph does not apply to a **replacement auto**, as described in General Definition 9. of this policy, for the three day period commencing on the date **you** became the owner, and excluding Saturdays, Sundays, and New Jersey legal holidays, if **you** notified **us** of the replacement and asked **us** to insure the **replacement auto** within said three day period, and if the replaced **auto** was covered under Part IV - Damage To A Vehicle for at least 12 continuous months prior to the date of replacement.

Nothing in this provision shall restrict any of **our** rights under the applicable New Jersey statutes and regulations, including all rights of an insurer to waive inspections and to defer inspections.

LEGAL ACTION AGAINST US

We may not be sued unless there is full compliance with all the terms of this policy.

We may not be sued for payment under Part I - Liability To Others until the obligation of an insured person under Part I to pay is finally determined either by judgment after trial against that person or by written agreement of the insured person, the claimant, and **us**. No one will have any right to make **us** a party to a lawsuit to determine the liability of an insured person.

If **we** retain salvage, **we** have no duty to preserve or otherwise retain the salvage for any purpose, including evidence for any civil or criminal proceeding.

OUR RIGHTS TO RECOVER PAYMENT

We are entitled to the rights of recovery that the insured person to whom payment was made has against another, to the extent of **our** payment. That insured person may be required to sign documents related to the recovery and must do whatever else **we** require to help **us** exercise those recovery rights, and do nothing after an accident or loss to prejudice those rights.

However, **we** may not assert rights of recovery against the owner or operator of an **underinsured motor vehicle** if the **insured person** under Part III - Uninsured/Un-

derinsured Motorist Coverage provides **us** with written notice 30 days prior to entering into a settlement that an offer of settlement has been made by, or on behalf of, the owner or operator of the **underinsured motor vehicle**, and **we** do not elect to pay to the **insured person** an amount equal to the amount offered in full settlement by, or on behalf of, the owner or operator of the **underinsured motor vehicle**.

When an insured person has been paid by **us** and also recovers from another, the amount recovered will be held by the insured person in trust for **us** and reimbursed to **us** to the extent of **our** payment. If **we** are not reimbursed, **we** may pursue recovery of that amount directly against that insured person.

If an insured person recovers from another without **our** written consent, the insured person's right to payment under any affected coverage will no longer exist.

If **we** elect to exercise **our** rights of recovery against another, **we** will also attempt to recover any deductible incurred by an insured person under this policy unless **we** are specifically instructed by that person not to pursue the deductible. **We** have no obligation to pursue recovery against another for any loss not covered by this policy.

We reserve the right to compromise or settle the deductible and property damage claims against the responsible parties for less than the full amount. **We** also reserve the right to incur reasonable expenses and attorney fees in pursuit of the recovery.

If the total recovery is less than the total of **our** payment and the deductible, **we** will reduce reimbursement of the deductible based on the proportion that the actual recovery bears to the total of **our** payment and the deductible. **We** will not reduce **your** share of the recovery by any attorney fees or collection expenses **we** incur. These provisions will be applied in accordance with state law.

PROOF OF HEALTH BENEFITS PLAN COVERAGE

If **you** select the "Health Insurance Primary" option for Personal Injury Protection Coverage, **we** may require that **you** provide proof that **you** and all **relatives** are insured by health insurance coverage in a manner and to an extent approved by the New Jersey Department of Banking and Insurance.

JOINT AND INDIVIDUAL INTERESTS

If there is more than one named insured on this policy, any named insured may cancel or change this policy. The action of one named insured will be binding on all persons provided coverage under this policy.

BANKRUPTCY

The bankruptcy or insolvency of an insured person will not relieve **us** of any obligations under this policy. Subject to the terms of this policy, if execution of a judgment against

an insured person is returned unsatisfied because of the insolvency or bankruptcy of the insured person, a person claiming damages under Part I - Liability To Others of this policy may maintain an action against **us** for the amount of the judgment subject to **our** Limits of Liability under Part I.

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