

COVERAGE PART 1 - INSURED'S DUTIES; INSURING AGREEMENT; DEFINITIONS

WHAT YOU MUST DO IN CASE OF AN ACCIDENT OR LOSS

Any person making a claim under any Coverage Part in this policy or seeking liability coverage under Coverage Part II - Liability must:

- (1) Notify **us** promptly. The notice must give the time, place and circumstances of the accident or loss including the names and addresses of injured persons and witnesses.
- (2) Cooperate with **us** and help **us** in any matter concerning a claim or suit. This includes, when asked, assisting **us** in making settlements, securing and giving evidence and attending and getting witnesses to attend hearings and trials. No obligations shall be assumed, expenses incurred or voluntary payments made by an **insured** person except at that person's own costs.
- (3) Send **us** promptly any legal papers received relating to a claim or suit.
- (4) Submit to physical examinations at **our** expense by doctors **we** choose as often as **we** may reasonably require.
- (5) Authorize **us** to obtain copies of wage, tax, business or financial records, medical records or any other records reasonably necessary to determine the amount of damages.
- (6) Provide any written proof of loss **we** require.
- (7) Give a statement under oath and any other statements **we** deem necessary to **our** representatives at **our** request and as often as **we** may reasonably require.
- (8) A person making claim under **uninsured motorist coverage** or **underinsured motorist coverage** must also:
 - (a) Give **us** all details about the death, injury, treatment or other information needed to determine the amount payable;
 - (b) Permit **us** to inspect the **motorcycle** or other vehicle involved in the accident;
 - (c) Immediately send to **us** a copy of all suit papers if the person making the claim sues another party liable for the accident;
 - (d) Under **uninsured motor vehicle** coverage, report an accident caused by an unidentified motor vehicle or unidentified operator to the police as soon as reasonably practical.
- (9) A person or organization claiming **motorcycle** damage coverage must:
 - (a) Take reasonable steps after loss to protect the **motorcycle** and its equipment from further loss. **We** will pay reasonable expenses incurred in providing that protection. If that is not done, any further damages will not be covered under Coverage Part IV-Motorcycle Damage Coverage;
 - (b) Report the theft of the **motorcycle** or its equipment to the police as soon as reasonably practicable;
 - (c) Allow **us** to inspect and appraise the damaged **motorcycle** before its repair or disposal;
 - (d) Allow **us** to copy all records, receipts and invoices relating to the purchase of the **motorcycle** or repairs to it.

- (10) A person claiming first party benefits coverage must also:
- (a) Give **us** all the details about the death, injury, treatment and other information necessary to determine the amount payable;
 - (b) Give **us** authorization to obtain copies of wage, tax, business or financial records, medical records or any other records necessary to determine the amount of the damages.

INSURING AGREEMENT

We agree with **you**, in return for **your** premium payment, to insure **you** subject to the terms of this policy.

We will insure **you** for the coverages and limits of liability for which a premium is shown in the Declarations of this policy.

DEFINITIONS USED THROUGHOUT THIS POLICY

When a term appears in boldface it will have the following meaning:

- (1) **We**, **us**, and **our** mean Rider Insurance Company or any other company providing this insurance as shown on the Declarations page.
- (2) **You** and **your** refer to:
 - (a) The named **insured** shown in the Declarations; and
 - (b) The spouse or partner of a civil union considered valid under New Jersey law if a resident of the same household. If the spouse or partner ceases to be a resident in the same household during the policy period or prior to the inception of this policy, the spouse or partner would be considered **you** and **your** under this policy but only until the earlier of:
 - (i) The end of 90 days following the spouse's or partner's change of residency;
 - (ii) The effective date of another policy listing the spouse or partner as a named **insured**; or
 - (iii) The end of the policy.
- (3) **Bodily injury** means bodily harm. It also includes sickness, disease, or death but only which results from bodily harm.
- (4) **Property damage** means physical injury to, destruction of, or loss of use of, tangible property. **Property damage** does not include diminution in value.
- (5) **Your insured motorcycle** means:
 - (a) The **motorcycle** and/or **all-terrain** and/or **utility all-terrain vehicle** described in the Declarations.
 - (b) A **trailer** or sidecar **you** own when permanently attached to **your motorcycle**.
 - (c) A **motorcycle you** become the owner of during the policy period if:
 - (1) it replaces the **motorcycle** described in the Declarations and
 - (2) **we** insure all **motorcycles** owned by **you** on the date **you** acquire the **motorcycle** and
 - (3) no insurance policy issued by a company other than **us** provides coverage for that **motorcycle** and
 - (4) if **you** want the "Motorcycle Damage Coverage" part of this policy to apply, **you** must notify **us** within 5 days after you acquire the **motorcycle**.

- (d) A **motorcycle** or **trailer** not owned by **you** while being used as a temporary substitute for a **motorcycle** described in this definition because of its withdrawal from normal use due to breakdown, repair, servicing, loss or destruction. **Your** use of the **motorcycle** or **trailer** must be with the consent of its owner.
 - (e) A **motorcycle** **you** become the owner of during the policy period that is in addition to the **motorcycle** described in the Declarations. Coverage begins on the date **you** become the owner, as long as **you** ask **us** to insure it within 14 days after **you** acquire the **motorcycle**. Otherwise coverage will begin when **you** notify **us**. It will be covered at the broadest coverage we provide for any **motorcycle** shown in the Declarations, except for coverage under “Damage To Your Motorcycle”. **You** must ask for that coverage if **you** want it. It is not automatic.
 - (f) Under COVERAGE PART II - LIABILITY any other **motorcycle** which is not owned by **you** or a **relative** or furnished or available for regular use by **you** or a **relative**, and not covered by another liability insurance policy, while being operated by **you** with the owner’s permission.
- (6) **Motorcycle** means a two wheeled motorized vehicle of the motorcycle or motorbike type. For coverage limited to Part II Liability only, motorcycle also means a two wheeled motorized vehicle of the moped or motor scooter type.
 - (7) **Motor vehicle business** means the business or occupation of selling, repairing, servicing, storing or parking vehicles.
 - (8) **Relative** means a person living in **your** household related to **you** by blood, marriage, a civil union considered valid under New Jersey law, or adoption, including a ward or foster child.
 - (9) **Occupying** means in, on, getting on to or off of.
 - (10) **Passenger** means any person other than the operator of **your insured motorcycle**, **occupying** it or a sidecar attached to it.
 - (11) **Trailer** means a vehicle designed to be towed by a **motorcycle**.
 - (12) **State** means the District of Columbia, any state, territory or possession of the United States and any province of Canada.
 - (13) **All-terrain vehicle** means a small, open motor vehicle having three or more wheels fitted with large low pressure tires, a seat that is straddled by the operator, and handlebars for steering control. It is designed chiefly for recreational use over roadless, rugged terrain.
 - (14) **Utility all-terrain vehicle** means a four-wheeled vehicle used exclusively off-road and containing no more than the operator and one passenger. It differs from an **all-terrain vehicle** in that its seat is not straddled by the operator, the passenger sits next to the operator, and it is not steered by handlebars. Under no circumstances does **utility all-terrain vehicle** include private passenger automobiles or any vehicle that is for on-road use.

COVERAGE PART II - LIABILITY

INSURING AGREEMENT

We will pay damages for which an **insured** person is legally liable because of **bodily**

injury or property damage resulting from the ownership, maintenance or use of **your insured motorcycle**. The **bodily injury or property damage** must occur during the policy period.

We will defend any suit or settle any claim asking for damages for **bodily injury or property damage** as we think appropriate. However, we will not defend or settle any suit after we have paid the applicable limit of **our** liability for the accident which is the basis of the lawsuit. We have no duty to defend any suit or settle any claim for **bodily injury or property damage** not covered under this policy.

ADDITIONAL DEFINITIONS USED IN THIS COVERAGE PART ONLY

As used in this Coverage Part, **insured** person means:

- (1) **You** or a **relative** for the ownership, maintenance or use of **your insured motorcycle or trailer**.
- (2) A person using **your insured motorcycle** with **your** permission.
- (3) Any other person or organization with respect only to legal liability for acts or omissions of:
 - (a) a person covered under this part while using **your insured motorcycle**, or
 - (b) **you** or a **relative** covered under this part while using a **motorcycle or trailer** other than **your insured motorcycle** if the **motorcycle or trailer** is not owned or hired by that person or organization and if it is not covered by any other liability insurance policy.

No person shall be considered an **insured** person if that person uses a vehicle without a reasonable belief of having permission to use the vehicle, including, but not limited to, a person not licensed to operate a **motorcycle**.

ADDITIONAL PAYMENTS

We will pay, on behalf of an **insured** person, in addition to **our** limit of liability:

- (1) All costs we incur in the settlement of a claim or defense of a suit.
- (2) All court costs assessed against **you** in **our** defense of a suit.
- (3) Interest on damages awarded in a suit we defend but only that interest which accrues after judgment is entered and before we have paid, offered to pay or deposited in court that portion of the judgment which is not more than **our** limit of liability.
- (4) Premiums on appeal and attachment bonds required in a suit we defend. We will not pay the premium for any bond that is more than **our** limit of liability. We have no duty to apply for or furnish bonds.
- (5) Up to \$250.00 for the costs of bail bonds required due to an accident related traffic law violation resulting in **bodily injury or property damage** covered by this part. We have no duty to apply for or furnish a bond.
- (6) All reasonable expenses other than the loss of earnings or income incurred by an **insured** person at **our** request.

EXCLUSIONS:

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

A. We do not provide coverage under this Coverage Part II - Liability for any **insured** for:

- (1) **Bodily injury** or **property damage** resulting from the ownership, maintenance or use of **your insured motorcycle** when used to carry persons or property for a charge. This exclusion does not apply to a share-the-expense carpool.
- (2) **Bodily injury** or **property damage** caused intentionally by or at the direction of an **insured** person.
- (3) **Bodily injury** or **property damage** for which a person is an **insured** under a nuclear energy liability insurance policy. This exclusion applies even if the limits of that policy are exhausted.
- (4) **Bodily injury** to an employee of an **insured** person arising in the course of employment by an **insured** person. Coverage does apply to a domestic employee unless benefits are payable or are required to be provided for that employee under a worker's compensation law.
- (5) **Bodily injury** or **property damage** resulting from **motor vehicle business** operations. Coverage does apply for **you**, a **relative**, or anyone associated with or employed by **you** or a **relative** with respect to the operation of **your insured motorcycle** in the **motor vehicle business**.
- (6) **Bodily injury** or **property damage** while **your insured motorcycle** is consigned to, or in the care of, anyone for sale.
- (7) **Property damage** to property owned or being transported by an **insured** person.
- (8) **Property damage** to property rented to, used by or in the care of an **insured** person.
- (9) **Bodily injury** or **property damage** resulting from the abandonment of **your insured motorcycle** by an **insured** person.
- (10) **Bodily injury** or **property damage** resulting from the use of **your insured motorcycle** in, or in practice or preparation for, any race, speed contest, hill climbing exhibition or any other contest or demonstration.
- (11) **Bodily injury** or **property damage** sustained while **your insured motorcycle** is used on any race course or other facility designed for racing or practicing racing.
- (12) **Bodily injury** or **property damage** resulting from the use of **your insured motorcycle** in any unlawful trade or transportation.
- (13) **Bodily injury** or **property damage** resulting from liability assumed by an **insured** person under any contract or agreement.
- (14) Liability for punitive or exemplary damages.
- (15) **Bodily injury** or **property damage** for which the United States is liable under the Federal Tort Claims Act.
- (16) **Bodily injury** or **property damage** arising out of the use of **your insured motorcycle** while leased or rented to others. However, this exclusion does not apply to the operation of **your insured motorcycle** by **you** or a **relative**.
- (17) Any person who is a named insured under the terms of a basic automobile insurance policy issued pursuant to N.J.S.A. 39:6A-3.1 or a special insurance policy issued

pursuant to N.J.S.A. 39:6A-3.3. However, this exclusion does not apply to **you** unless **you** are **occupying**, at the time of the accident, a motor vehicle for which **you** are a named insured under the terms of a basic automobile insurance policy or special insurance policy.

(18) Using a vehicle without a reasonable belief that that operator is entitled to do so, including, but not limited to, a person not licensed to operate a **motorcycle**.

B. **We** do not provide liability coverage for the ownership, maintenance or use of

(1) Any **motorcycle**, other than **your insured motorcycle**, which is:

(a) Owned by **you**; or

(b) Furnished or available for **your** regular use.

(2) Any **motorcycle**, other than **your insured motorcycle**, which is:

(a) Owned by any **relative**; or

(b) Furnished or available for the regular use of any **relative**.

However, this exclusion ("B.2") does not apply to **your** maintenance or use of any vehicle which is:

(a) Owned by a **relative**; or

(b) Furnished or available for the regular use of a **relative**.

CONFORMITY WITH STATE FINANCIAL RESPONSIBILITY LAWS

When **we** certify this policy as proof under a **state** financial responsibility law, it will comply with that law to the extent of the coverage and limits of liability required by that law during the policy period. **You** must reimburse **us** if **we** make a payment **we** would not have had to make but for the certification.

OUT OF STATE COVERAGE

A. If **your insured motorcycle** is being operated temporarily in another **state** and as a result an **insured** person becomes subject to that **state's** motor vehicle compulsory insurance, financial responsibility or similar law, this policy will provide the greater of:

(1) The required minimum amounts and types of coverage; or

(2) The limits of liability under this policy.

B. No one will be entitled to duplicate payments for the same elements of loss.

LIMITS OF LIABILITY

The limits of liability shown on the Declarations page for this COVERAGE PART II - LIABILITY is the most **we** will pay in damages resulting from any one accident subject to the following:

(1) The **bodily injury** liability for "each person" is the maximum **we** will for all damages for **bodily injury** sustained by one person in one occurrence. The "each person" limit of liability includes 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 and 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 death.

(2) Subject to the **bodily injury** liability limit for "each person" the **bodily injury** liability limit for "each occurrence" to two or more persons in one occurrence.

- (3) The **property damage** liability limits for “each occurrence” is the maximum **we** will pay for all damages to property in one occurrence.
- (4) **We** will pay no more than these maximums regardless of the number of vehicles or premiums described in the Declarations, **insured** persons, claims, claimants, policies, or vehicles involved in the occurrence. Any amount payable under this coverage for an **insured** person will be reduced by any payment made to that person under the underinsured motorist coverage of this policy.
- (5) All **bodily injury** and **property damage** arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one occurrence.
- (6) No one will be entitled to duplicate payments for the same elements of loss under this Coverage Part and Coverage Part V (Uninsured / Underinsured Motorist Coverage.)
- (7) A **motorcycle** and an attached **trailer** are one vehicle. Therefore, the limits are not increased.

SEPARATE APPLICATION OF THIS INSURANCE

This insurance applies separately to each **insured** person against whom a claim is made or suit is brought, except with respect to the limits of **our** liability.

OTHER INSURANCE

If there is other applicable liability insurance on a loss covered by this Coverage Part II - Liability and if **our** policy does not apply as excess, then **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limits of liability bear to the total of all applicable liability limits. However, any insurance **we** provide under this Coverage Part II - Liability for a **motorcycle you** do not own or a **motorcycle** owned by **you** or **your relative** which is not **insured** for this coverage under this policy is excess over any other collectible liability insurance. The term “collectible liability insurance” includes coverage provided by an organization or person through a program of self insurance permitted by the law of the **state** in which the vehicle is registered.

With respect to an accident or occurrence to which this and any other **motorcycle** policy **we** issue to **you** applies, the total limit of **our** liability under all of the applicable policies shall not exceed the highest applicable limit of liability under any one policy.

This policy does not provide liability coverage for any person who is a named insured under a Basic Automobile Insurance Policy or Special Automobile Insurance Policy issued pursuant to New Jersey law or regulation. However, this exclusion does not apply to **you** unless **you** are **occupying**, at the time of the accident, a motor vehicle for which **you** are a named insured under the terms of a Basic Automobile Insurance Policy or Special Automobile Insurance Policy.

COVERAGE PART III - PEDESTRIAN PERSONAL INJURY PROTECTION COVERAGE

This policy provides **pedestrian** personal injury protection coverage to **pedestrians** who sustain **bodily injury** caused by **your insured motorcycle** in the **State** of New Jersey or

by being struck by an object propelled by or from **your insured motorcycle** in the **State** of New Jersey.

NO OTHER PERSONAL INJURY PROTECTION BENEFITS ARE PROVIDED BY THIS POLICY.

INSURING AGREEMENT

(1) We will pay **pedestrian** personal injury protection benefits to or for an **insured** who sustains **bodily injury**. The **bodily injury** must be caused by an accident arising out of the ownership, maintenance or use of **your insured motorcycle**.

(2) With respect to **Pedestrian** Personal Injury Protection Coverage, **insured** means:

A “**pedestrian**”, when the **bodily injury** is caused in New Jersey by:

(a) **your insured motorcycle**; or

(b) by being struck by an object propelled by or from **your insured motorcycle**.

NO OTHER PERSON IS AN INSURED FOR PURPOSES OF PERSONAL INJURY PROTECTION BENEFITS UNDER THIS POLICY.

(3) Subject to the terms, conditions, and exclusions of this Coverage Part, **Pedestrian** Personal Injury Protection benefits consist of the following:

(a) Medical Expenses - Reasonable and necessary expenses, up to but not exceeding the sum of \$250,000, incurred for:

(i) Medical, surgical, rehabilitative and diagnostic treatments and services;

(ii) Hospital expenses;

(iii) Ambulance or transportation services;

(iv) Medication; and

(v) Non-medical expenses that are prescribed by a treating **health care provider** for a permanent or significant brain, spinal cord or disfiguring injury.

Non-medical expense means charges for:

(i) Products and devices, not exclusively used for medical purposes or as durable medical equipment, such as vehicles, durable goods, equipment, appurtenances, improvements to real or personal property, fixtures; and

(ii) Services and activities such as recreational activities, trips and leisure activities.

All medical expenses must:

(i) Be rendered by a **health care provider**;

(ii) Be **clinically supported** and consistent with the symptoms, diagnosis or indications of the **insured**;

(iii) 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**;

(iv) Not be rendered primarily for the convenience of the **insured** or the **health care provider**;

(v) Not involve unnecessary testing or treatment; and

(vi) If they are identified in our **precertification** plan, receive **precertification** by **us**, except for **emergency care** and initial care

provided in the first ten (10) days of treatment.

However, medical expenses include any nonmedical remedial treatment rendered in accordance with recognized religious methods of healing.

(b) Income Continuation - Loss of **income** of an **income producer** payable during his lifetime as a result of **bodily injury** disability. **Income** continuation shall not exceed net **income** normally earned during the period in which benefits are payable and in no event shall exceed the maximum of \$100 per week and in no event shall exceed the total sum of \$5200.

(c) Essential Services - Reimbursement to an **insured**, up to the maximum of \$12.00 per day, but not exceeding the total sum of \$4380, to an **insured**, for payments made to others, for necessary and reasonable expenses incurred in obtaining substitute essential services ordinarily performed by such **insured** during his lifetime, not for **income** but for the benefit of himself and any **relatives**.

(d) Death Benefits - An amount payable in the event of the death of an **insured**, subject to the maximums for **income** continuation benefits and essential services benefits of (3)(b) and (3)(c) above, to be calculated as follows:

(i) If the **insured** was an **income producer** at the time of the accident, the amount of any unpaid **income** continuation benefits available to such **insured** at the time of the **insured's** death.

(ii) If the **insured** ordinarily performed essential services for the care and maintenance of himself and any **relative**, the amount of any unpaid essential services benefits available to such **insured** at the time of the **insured's** death.

(e) Funeral Expenses -Reasonable expenses, up to but not exceeding the sum of \$1000, incurred for funeral, burial, and cremation.

DEFINITIONS

The Definitions section is amended as follows with respect to this coverage part:

A. The following definition is replaced:

Bodily injury means bodily harm, sickness or disease, including an **identified injury** or death but only which results from and in bodily harm.

B. The following definitions are added:

(1) **Actual benefits** means those benefits determined to be payable for **allowable expenses**.

(2) **Allowable expense** means a **medically necessary**, reasonable and customary item of expense covered as benefits by the **named insured's** or a **relative's** health benefits plan or personal injury protection benefits as an **eligible expense**, at least in part. When benefits provided are 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.

(3) **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** to ensure that the proper medical indications exist to justify ordering the treatment or test;

- (b) Physically examined the patient 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's** medical records.
- (4) **Decision point** means those junctures in the treatment of an **identified injury** where a decision must be made about the continuation or choice of further treatment. It includes any determination to administer one of the tests identified in N.J.A.C. 11-3-4.5(b).
- (5) **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 diagnosis, 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.
- (6) **Eligible expense** means:
- (a) With respect to health benefits plans, that portion of the medical expenses incurred for the treatment of **bodily injury** which is covered under the terms and conditions of the plan, without application of the deductible(s) and co-payment(s), if any.
 - (b) With respect to personal injury protection benefits, that portion of the medical expenses incurred for the treatment of **bodily 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, as determined by **us**, considering the medical fee schedules for similar 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.
- (7) **Emergency care** means all treatment of a **bodily injury** which manifests itself by acute symptoms of sufficient severity such that absence of immediate attention could reasonably be expected to result in:
- (a) Death;
 - (b) Serious impairment to bodily functions; or
 - (c) Serious dysfunction of a bodily organ or part.

Emergency care ends when the **insured** is discharged from acute care by the attending **health care provider**. **Emergency care** shall be presumed when the medical care is initiated at a hospital within 120 hours of the accident.

- (8) **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 that is maintained by the **State** or any political subdivision;
 - (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 radiological and **diagnostic testing**, free-standing emergency clinics or offices, and private treatment centers;

(d) A non-profit voluntary visiting nurse organization providing health care services other than 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;

(i) Licensed chiropractors;

(ii) Licensed dentists;

(iii) Licensed optometrists;

(iv) Licensed pharmacists;

(v) Licensed podiatrists;

(vi) Registered bioanalytical laboratories;

(vii) Licensed psychologists;

(viii) Licensed physical therapists;

(ix) Certified nurse mid-wives;

(x) Certified nurse practitioners/clinical nurse-specialist;

(xi) Licensed health maintenance organizations;

(xii) Licensed orthotists and prosthetists;

(xiii) Licensed professional nurses;

(xiv) Licensed occupational therapists;

(xv) Licensed speech-language pathologists;

(xvi) Licensed audiologists;

(xvii) Licensed physicians' assistants;

(xviii) Licensed physical therapy assistants;

(xix) Licensed occupational therapy assistants; and

(xx) **Providers** of other health care services or supplies, including durable medical goods.

(9) **Health Benefits Provider** means an person, whether subject to the regulation of the New Jersey Department of Banking and Insurance, Department of Health and Senior Services, or both, or not otherwise subject to such regulation, who contracts to provide health services, provide reimbursement for the cost of health services in whole or in part, or to provide for indemnity in the event health services are used, in return for a prepaid or postpaid premium or fee or other consideration, including, but not limited to:

(a) Insurers, as defined at N.J.S.A. 17B:17-2;

(b) Hospital service corporations, as defined at N.J.S.A. 17:48-1;

(c) Medical service corporations, as defined at N.J.S.A. 17:48A-1;

(d) Health service corporations, as defined at N.J.S.A. 17:48E-1;

(e) Health maintenance organizations, as defined at N.J.S.A. 26:2J-2;

(f) Dental service corporations, as defined at N.J.S.A. 17:48C-2;

(g) Dental plan organizations, as defined at N.J.S.A. 17:48D-2;

(h) Medicare;

- (i) Medicaid;
- (j) **State Employees Health Benefits Plan**;
- (k) CHAMPUS;
- (l) Self-insured programs; and
- (m) An entity organized under the laws of any other **state** or jurisdiction which delivers certificates to residents of New Jersey evidencing coverage under a contract issued and delivered in a **state** or jurisdiction other than New Jersey.

A **health benefits provider** does not include an automobile insurer providing personal injury protection benefit.

- (10) **Identified injury** means the following “bodily injuries” for which the New Jersey Department of Banking and Insurance has established standard courses of appropriate diagnosis and treatment;
 - (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 standard courses of appropriate diagnosis and treatment.
- (11) **Income** means salary, wages, tips, commissions, fees and other earnings derived from work or employment. It does not include unearned **income** such as pensions, interest, dividends or social security.
- (12) **Income producer** means a person who, at the time of the accident, was in an occupational status earning or producing **income**. The status of an **income producer** will cease when the recipient is no longer an **income producer** for reasons other than disability.
- (13) **Medically necessary**, as determined by **us**, means that the treatment is consistent with the symptoms or diagnosis, and treatment of the injury:
 - (a) is rendered by a **health care provider**;
 - (b) is **clinically supported**;
 - (c) is not primarily for the convenience of the injured person, his family/caretaker or **health care provider**;
 - (d) is the most appropriate standard or level of service which is in accordance with standards of good practice and standard professional treatment protocols. Standard professional treatment protocols are defined as treatment that meets evidence-based clinical guidelines, practice or treatment, published in peer-review journals; and
 - (e) does not involve unnecessary **diagnostic testing**.
- (14) **Precertification** means the procedures in **our** approved **Decision Point** Review Plan for **us** to receive notice and respond to requests for **our** preapproval of the specific medical procedures, treatments, diagnostic tests, and other services and durable medical equipment listed in **our** approved **Decision Point** Review/**Precertification** Plan, that are not subject to **decision point** review but are subject to **precertification**.
- (15) **Pedestrian** means any person who is not **occupying**, entering on to or into, or

getting off or out of a vehicle:

- (a) Propelled by other than muscular power; and
- (b) Designed primarily for use on highways, rails and tracks.

EXCLUSIONS:

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

A. We do not provide Personal Injury Protection Coverage for **bodily injury:**

(1) To any **insured**:

- (a) Whose conduct contributed to the **bodily injury** in any of the following ways:
 - (i) While committing a high misdemeanor or felony, or seeking to avoid lawful apprehension or arrest by a police officer; or
 - (ii) While acting with specific intent to cause injury or damage to himself or others.

(b) If that **insured** is entitled to personal injury protection coverage as a named insured or relative under the terms of another policy, including a “basic automobile insurance policy” or special automobile insurance policy as defined by the New Jersey Automobile Insurance Cost Reduction Act of 1998 and any amendments thereto.

(c) Operating or **occupying a motorcycle** without the permission of the

- (i) owner of the **motorcycle**; or
- (ii) named insured under the policy insuring that **motorcycle**.

(d) Who is the owner of a motor vehicle that is registered or principally garaged in New Jersey and is required to be insured by an insurance policy providing personal injury protection benefits, but who has failed to maintain such a policy in effect on the date of the accident.

(2) Arising out of the ownership, maintenance or use, including loading or unloading, of any vehicle while located for use as a residence or premises, other than for transitory recreational purposes.

(3) Due to:

- (a) War (declared or undeclared);
- (b) Civil war;
- (c) Insurrection;
- (d) Rebellion or revolution; or
- (e) Any act or condition incident to any of the above.

(4) Resulting from:

- (a) Radioactive;
- (b) Toxic;
- (c) Explosive; or
- (d) other hazardous

properties of nuclear material.

(5) To any **relative** if the **relative** is entitled to New Jersey Personal Insurance Protection Coverage as a named insured under the terms of another policy.

B. We do not provide Personal Injury Protection Coverage with respect to the following

diagnostic tests:

- (1) Spinal diagnostic ultrasound;
- (2) Iridology;
- (3) Reflexology;
- (4) Surrogate arm mentoring;
- (5) Surface Electromyography (Surface EMG);
- (6) Mandibular tracking and simulation;
- (7) Any other **diagnostic test** that is determined by New Jersey law or regulation to be ineligible for Personal Injury Protection Coverage;
- (8) Any **diagnostic test** that is determined to have no significant medical value in developing, evaluating and implementing treatment plans as identified by the New Jersey Department of Banking and Insurance in N.J.A.C. 11:3-4.5 and subsequent revisions.

C. **We** do not provide personal injury protection coverage for **bodily injury** to any **insured**:

- (1) When treatments are deemed to be experimental or investigational; and
- (2) For any **diagnostic test**, treatment, service, prescription drug or durable good not considered **medically necessary**.

D. **We** do not provide personal injury protection coverage for **bodily injury** to an **insured** for that portion of payable amounts that are paid, payable or required and provided under any workers compensation or employees temporary disability law or under Medicare provided under federal law or benefits that are actually collected that are provided under federal law to active and retired military personnel.

E. **We** do not provide personal injury protection coverage for **bodily injury** to any **insured** covered under a Basic Automobile Insurance Policy issued pursuant to N.J.S.A. 39:6A-3.1.

LIMIT OF LIABILITY

A. The limits of liability described in this Coverage Part for the Personal Injury Protection Coverage benefits that apply are the most **we** will pay to or for each **insured** injured in any one accident, regardless of the number of:

- (1) **Insureds**;
- (2) Policies applicable; or
- (3) Vehicles insured.

B. Any amounts payable under Personal Injury Protection Coverage shall be reduced by any amounts:

- (1) Paid;
- (2) Payable; or
- (3) Required to be provided to under any of the following:
 - (a) Workers compensation law, disability benefits law, or similar law;
 - (b) Medicare provided under federal law; or
 - (c) Benefits actually collected that are provided under federal law to active and

retired military personnel;

C. Any amounts payable for medical expense benefits shall be the fee set forth in the medical fee schedules promulgated by the New Jersey Department of Banking and Insurance for specific injuries or services or the usual, customary and reasonable fee, whichever is less.

D. Any amounts payable for medical expense benefits as a result of any one accident shall be

subject to a co-payment of 50% of **allowable expense** if **decision point** review or **precertification** requirements are not met.

E. The \$100 limit of liability for weekly income continuation benefits shall be prorated for any period of **bodily injury** disability less than one week.

F. Under no circumstances will more than \$250,000 in medical expense benefits be paid for any one person for any one accident.

OTHER INSURANCE

A. 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. If an **insured** receives benefits from another insurer, that insurer shall be entitled to recover from **us** its pro rata share of the benefits paid. An insurer's pro rata share is the proportion that the insurer's liability bears to the total of all applicable limits.

B. If there is other applicable insurance, including approved self-insurance plans, the maximum recovery under all such insurance shall not exceed the amount which would have been payable under the insurance with the highest limit of liability.

C. If the **relative** for which this coverage is purchased is a named insured under a Basic Policy, this coverage does not apply pursuant to N.J.A.C. 11:3-3.3.

GENERAL PROVISIONS

The **Our** Recovery Rights Provision of Coverage Part VI General Provisions is replaced in this Coverage Part III **Pedestrian** Personal Injury Protection Coverage by the following:

OUR RECOVERY RIGHTS

(A) If **we** make a payment under this Coverage Part and the person to or for whom payment was made recovers damages from another;

(1) That person shall:

(i) Hold in trust for **us** the proceeds of the recovery;

(ii) Reimburse **us** to the extent of **our** payment;

(iii) Execute and deliver such instruments and papers as may be appropriate to secure the rights and obligations of that person and **us**; and

(iv) Do nothing after loss to prejudice these rights.

(2) **We** shall have a lien to the extent of such payment. **We** may give notice of lien to:

- (i) The person or organization causing the **bodily injury**
- (ii) His agent;
- (iii) His insurer, or
- (iv) A court having jurisdiction.

The following provisions are added to Part VI General Provisions:

SPECIAL REQUIREMENTS FOR MEDICAL EXPENSES

(1) Care Paths for “**Identified Injuries**” (Medical Protocols)

(a) The New Jersey Department of Banking and Insurance has established by regulation the standard courses of appropriate diagnosis and treatment for “**Identified Injuries**”. These courses of diagnosis and treatment are known as care paths. The Care Paths do not apply to treatment administered during **emergency care**.

(b) Upon notification to **us** of a **bodily injury** covered under this policy, **we** will advise the **insured** of the Care Path requirements established by the New Jersey Department of Banking and Insurance.

(c) Where the Care Paths indicate a **decision point**, further treatment or the administration of a **diagnostic test** is subject to the **Decision Point** Review Plan. A **decision point** means the juncture in treatment where a determination must be made about the continuation or choice of further treatment of an **identified injury**.

(2) Coverage for **Diagnostic Tests**

(a) In addition to the Care Path requirements for an **identified injury**, the administration of any of the following **diagnostic tests** is also subject to the requirements of the **Decision Point** Review Plan:

- (i) Brain audio evoked potential (BAEP);
- (ii) Brain evoked potential (BEP);
- (iii) Computer assisted tomographic studies (CT, CAT Scan);
- (iv) Dynatron/cyber station/cybex;
- (v) Electroencephalogram (EEG);
- (vi) H-reflex Study; (vii) Magnetic resonance imaging (MRI);
- (viii) Needle electromyography (needle EMG);
- (ix) Nerve conduction velocity (NCV);
- (x) Somasensory evoked potential (SSEP);
- (xi) Sonogram/ultrasound;
- (xii) Videofluoroscopy;
- (xiii) Visual evoked potential (VEP);
- (xiv) Thermography/thermograms;
- (xv) Brain Mapping, when done in conjunction with appropriate neurodiagnostics; or
- (xvi) Any other **diagnostic test** that is subject to the requirements of **Decision Point** Review by New Jersey law or regulation.

(b) The **diagnostic tests** listed under Paragraph 2.a. must be administered in

accordance with New Jersey Department of Banking and Insurance regulations which set forth the requirements for the use of **diagnostic tests** in evaluating injuries sustained in an accident. However, those requirements do not apply to **diagnostic tests** administered during **emergency care**.

(c) **We** will pay for other **diagnostic tests** which are:

- (i) Not subject to the **Decision Point** Review Plan; and
- (ii) Not specifically excluded under Exclusion B or C;

only if administered in accordance with the criteria for medical expenses as provided in this policy.

(3) **Decision Point** Review / **Precertification** Plan

(a) The requirements of the **Decision Point** Review / **Precertification** Plan only apply after the tenth day following the accident.

(b) Paragraphs (1) and (2) above list those items that are part of **our decision point** review process. In addition to those items, **our** approved **Decision Point** Review/ **Precertification** Plan lists specific medical procedures, treatments, diagnostic tests, other services, and durable medical equipment (except **emergency care**) that are not subject to **decision point** review but are subject to **precertification**. Requests for **decision point** review or for **precertification** must be submitted and will be processed in accordance with **our** approved **Decision Point** Review / **Precertification** Plan. As part of the **decision point** / **precertification** process, **we** must be provided reasonable prior notice, with appropriate **clinically supported** findings, that:

- (i) Additional treatment for an **identified injury**; or
- (ii) The administration of a **diagnostic test** listed under Paragraph 2.a.

is required.

(c) Once **we** receive such notice with the appropriate **clinically supported** findings, **we** will:

- (i) Promptly review the notice and supporting materials; and
- (ii) If required as part of **our** review;
 - (1) request any additional medical records; or
 - (2) schedule a physical examination.

(d) **We** will then determine, and notify the **insured**, whether **we** will provide coverage for the additional treatment or **diagnostic test**. Any determination **we** make will be based on the determination of a **health care provider**. Potentially covered services for an eligible **insured** person beyond those initially preapproved by **us** via **precertification**, require additional **precertification**. In the case of a documented plan of treatment by a **health care provider** **we** may, at **our** discretion, apply the **precertification** process on an incremental basis; i.e., **we** may preapprove a portion of the services requested in the documented plan of treatment and require a request for **precertification** for remaining services. When a documented plan of treatment is not involved, additional services not already preapproved by **us** that require **precertification** will need to obtain another **precertification**.

(e) A comprehensive treatment plan may be submitted by the **insured** or a **health care provider** acting on behalf of the **insured**. This comprehensive treatment plan will outline treatment, diagnostics, and procedures to be completed

in a specified period of time. Once a comprehensive treatment plan is approved or modified by **us**, no further **decision point** review or **precertification** requests will need to be submitted unless changes need to be made.

If there is no comprehensive treatment plan submitted, then **decision point** review/**precertification** is required to avoid penalties.

(f) **We** have contracted with preferred **health care providers** for the following:

- 1) Magnetic Resonance Imagery
- 2) Computer Assisted Tomography
- 3) The electrodiagnostic tests listed in N.J.A.C. 11:3-4.5(b) 1 through 3 except for a needle EMG when performed by the treating physician
- 4) Durable medical equipment with a cost or monthly rental in excess of \$50.00
- 5) Prescription drugs
- 6) Services, equipment or accommodations provided by an ambulatory surgery facility.

Use of a preferred **health care provider** is strictly voluntary. However, if an **insured** does not utilize the Preferred Provider Network for the items listed above, an additional 30% co-payment will apply for each service or test.

(g) Any physical examination of an **insured** scheduled as part of this plan will be conducted as follows:

(i) **We** will notify the **insured** that a physical examination is required before **we** determine whether **we** will provide coverage for further treatment or tests.

(ii) The physical examination will be:

- (1) Scheduled within seven calendar days of **our** receipt of the notice of the request for additional treatment or the administration of **diagnostic tests**, unless the **insured** agrees with **us** to extend the time period;
- (2) Conducted by a **health care provider** in the same discipline as the treating **health care provider**; and
- (3) Conducted at a location reasonably convenient to the **insured**.

(iii) The **insured** or **health care provider** shall, if requested from **us**, provide medical records and other pertinent information to the **health care provider** conducting the physical examination. The requested records must be provided before, or at, the time of the examination.

(iv) If **we** schedule a physical examination, **we** will notify the **insured** whether coverage will be provided for the treatment or tests no later than three days after the examination.

More than one unexcused failure by an **insured** to attend a scheduled physical examination will result in denial of reimbursement for further treatment, diagnostic testing or durable medical equipment required for the diagnosis (and related diagnosis) contained in the **health care provider's** treatment plan form.

(h) Penalties:

(i) If any **insured** or their **health care provider** fails to:

- (a) Request **decision point** review or **precertification** as required in this policy; or

(b) Provide **clinically supported** findings that support the treatment, diagnostic test or durable medical equipment requested; then **we** will impose a co-payment penalty. The co-payment penalty will be 50% of the lesser of:

(a) The treating **health care provider's** usual, customary and reasonable charge; or

(b) The upper limit of the medical fee schedule promulgated by the New Jersey Department of Banking and Insurance;

for any medical expenses incurred after notification to **us** is required but before authorization for continued treatment or the administration of a test is made by **us**.

(ii) If any **insured** or their **health care provider** does not as promptly as possible after an accident, notify **us** and advise and inform **us** about the facts of the accident, the nature and cause of the injury, the diagnosis and the anticipated course of treatment, then the following penalties shall apply:

(a) In the event that this notification is received 30 days or more after the accident, the penalty shall be an additional co-payment of 25% of the eligible charges for medically necessary expenses that are incurred after notification to **us** is required and until notification is received; or

(b) If this notification is received 60 days or more after the accident, the co-payment penalty shall be 50% of the eligible charges for medically necessary expenses that **we** incurred after notification to **us** is required and until notification is received.

(iii) If an **insured** does not utilize the Preferred Provider Network **for the items listed in (e) above**, an additional 30% co-payment will apply for each service or test.

(i) Requirements for Coverage of non-medical expenses:

We shall only provide coverage for **clinically supported** necessary non-medical expenses that are prescribed by a treating medical **provider** for a permanent or significant brain, spinal cord or disfiguring injury.

(i) **We** must be provided with prior written notice, with appropriate **clinically supported** findings, that the non-medical expenses are necessary for the permanent or significant brain, spinal cord or disfiguring injury.

(ii) **We** will then determine, and notify the **insured**, whether **we** will provide coverage for the non-medical expenses.

(iii) All non-medical expenses must receive prior authorization by **us** unless they have been approved under a comprehensive treatment plan.

(j) Assignment of a named insured or eligible injured person's rights and duties under the policy of insurance is prohibited except to a provider of service benefits who agrees to:

- 1) Fully comply with the Decision Point Review Plan, including Pre-Certification requirements,
- 2) Comply with the terms and conditions of the insurance policy
- 3) Provide complete and legible medical records and other pertinent

information when requested by Active Care.

- 4) Utilize the internal appeals process which shall be a condition precedent to the filing of a demand for alternative dispute resolution for any issue related to bill payment, bill processing, Decision Point Review request or Pre-Certification requests.
- 5) Submit disputes to alternative dispute resolution pursuant to N.J.A.C. 11:3
- 6) Consent to the consolidation of all pending Arbitration involving the same person, accident, or claim number.

Failure by the provider of service benefits to comply with all of the foregoing requirement will render any prior assignment of benefits under the insurance companies policy null and void. Should the provider accept direct payment of benefits, the provider is required to hold harmless the insured and the insurance carrier for any reduction of payment for services caused by the provider's failure to comply with the terms of the insurance carrier's policy.

(k) Internal Appeal Process

An **insured**, their **health care provider**, or someone acting on behalf of the **insured**, may request us and the Plan Administrator to review any decision we make regarding the treatment plan, or denial of any service, treatment, diagnostic testing or durable medical goods. Internal appeals will be divided into two types of appeals – Treatment Appeals and Administrative Appeals.

1. Treatment Appeals refer to any adverse decisions regarding the **medical necessity** of future treatment or testing that was requested by the treating provider on a properly completed Decision Point Review/Precertification request.
2. Administrative Appeals refer to all other adverse decisions.

Treatment Appeals

The **health care provider** may request that we review any adverse decision regarding **medical necessity** of future treatment. The request for appeal must be in writing and submitted within fourteen (14) days of our decision notification to the **insured**, their **health care provider** or someone acting on behalf of the **insured**. All additional documentation to be considered shall be included.

Acknowledgment of Receipt of Appeal will be sent within three (3) business days of receipt. Notification of decision will be made to the provider within ten (10) business days after acknowledgment of receipt date.

Administrative Appeals

Administrative Appeals must be submitted within 180 days of the adverse decision that is the basis for the appeal. The appeal must be submitted for review with supporting documentation. An acknowledgment of receipt of

appeal will be sent within five (5) business days. An outcome decision will be sent to the **health care provider** or the **insured** in writing within thirty (30) business days after acknowledgment of receipt date.

All internal appeals must be submitted at least thirty (30) days prior to filing a demand for Arbitration.

Any dispute by an **insured**, or by a **health care provider** who has taken an assignment, 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.

PAYMENT OF BENEFITS

A. We may, at **our** option, pay any medical expense benefits or essential services benefits to the:

- (1) **Insured**; or
- (2) Person or organization providing products or services for such benefits.

These benefits shall not be assignable except to **providers** of service benefits. If so assigned, the **provider** of service benefits shall also be subject to the requirements of the **precertification**, including **Decision Point** Review Plan.

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

- (1) Any amounts payable, but unpaid prior to death, for medical expense benefits to the **insured's** estate;
- (2) Death benefits for an **insured** who was:
 - (a) An **income producer**, to:
 - (i) The surviving spouse; or
 - (ii) If there is no surviving spouse, the surviving children; or
 - (iii) If there are no surviving children, the **insured's** estate.
 - (b) A **provider** of essential services to the person who has incurred the expense of providing essential services.
- (3) Funeral expense benefits to the **insured's** estate.

DISPUTE RESOLUTION

A. Dispute Resolution Organization (DRO), appointed by the Commissioner of Banking and Insurance, administers the personal injury protection Dispute Resolution Program (DRP). The personal injury protection DRP applies to interpretation of personal injury protection provisions including:

- (1) whether adjudication of treatment or tests followed legislative/regulatory requirements;
- (2) eligibility of services, treatments, durable goods for reimbursement (including application of deductible and copayment);
- (3) **provider** eligibility;
- (4) whether the services, treatments, durable goods were actually performed or provided;
- (5) whether **diagnostic test** are recognized by Professional Boards and approved by the Commissioner of Banking and Insurance;
- (6) the necessity and appropriateness of consultation with other **health care providers**;

- (7) application of the fee schedule;
- (8) whether services, treatments, durable goods are reasonable, necessary and in accordance with adopted medical protocols;
- (9) and amounts claimed for personal injury protection benefits.

As to disagreements arising from issues within this endorsement, the DRP is the sole and exclusive method or remedy for resolving disputes.

B. DRP procedures include:

- (1) A written request for dispute resolution must be made to the DRO by the eligible injured person, the **insured**, a **provider** as assignee, or **us**. At the requester's option, the request may include a request for review by a Medical Review Organization (MRO). Copies of the request must be sent by the requestor to all parties.
- (2) Upon receipt, the DRO assigns the matter to a Dispute Resolution Professional (DRP) and notifies all parties of the assignment. If the dispute request includes a request for review by an MRO, the DRO refers the matter to a certified MRO at the same time as assignment of the DRP, and notifies all parties that the matter has been referred. A request to refer to the MRO may also be made subsequent to an initial request for dispute resolution. The DRO may refer to an MRO of his/her own initiative, as appropriate.
- (3) The MRO shall request, and the **health care provider** whose services are subject to review shall provide, a written report of the history, condition, treatment dates and results of **diagnostic tests** performed, and shall produce and permit the copying of an inspection of all records relating to the history, treatment and condition of the eligible injured person, and shall submit all necessary documentation as requested by the MRO. **We** shall also, upon request of the DRO, submit any and all documentation concerning **our** review of the treatment and testing of the eligible injured person, and any reports by **our** reviewing **provider** as to why reimbursement was denied.
- (4) The MRO may, at its discretion, request the eligible injured person to submit to a mental and/or physical examination by an independent **health care provider** in the same discipline as the treating **provider**, but who is not affiliated with the treating **health care provider**, the insurer or the MRO **health care provider** performing the review. These examinations will be conducted in a place reasonably convenient to the eligible injured person and the MRO shall make available to the examining **health care provider** any pertinent medical records.
- (5) DRP determinations are in writing and state all disputed issues, the DRP's findings and legal conclusions based on the record of the proceedings and the determination of the MRO, if any.
- (6) The award:
 - (a) shall set forth a decision on all issues submitted by the parties for resolution;
 - (b) shall apportion the cost of the proceedings, regardless of who initiated the proceedings, in a reasonable and equitable manner consistent with the resolution of the issues in the dispute;
 - (c) may include attorney's fees for successful claimant or respondent in an amount consistent with the award;
 - (d) shall be signed by the DRP, original filed with the DRO, and copies provided

to each party;

(e) if requiring payment by **us**, such payment shall be made, together with any accrued interest, within twenty days of receipt of a copy of the determination.

C. Employee Benefits Reimbursement - If an **insured** fails to apply for workers' compensation benefits or disability benefits for which that **insured** or eligible injured person is eligible, **we** may immediately apply to the **provider** of such benefits for reimbursement of any benefits **we** have paid under this coverage.

COVERAGE PART IV - MOTORCYCLE DAMAGE COVERAGE

INSURING AGREEMENT

(1) **We** will pay for direct and accidental **loss** to **your insured motorcycle**, including its equipment when permanently attached, minus any applicable deductible shown in the Declarations.

(2) **We** will pay for **loss** to **your insured motorcycle** caused by:

(a) **Other than collision** only if the Declarations indicate that **Other Than Collision** Coverage is provided for that **motorcycle**.

(b) **Collision** only if the Declarations indicate that **Collision** Coverage is provided for that **motorcycle**.

Coverage Part IV shall be effective only if **your insured motorcycle** is inspected in accordance with **our** requirements and at a time and place of **our** request. **You** will be notified of the time and place of inspection by letter sent with proof of mailing after the commencement of the policy period. If the inspection is not performed as required, the coverage provided by this Coverage Part shall terminate as of 12:01 a.m. on the day following the last date allowed for the inspection, and **you** will receive a *pro rata* return of premium. Proof of mailing from the United States Post Office shall constitute proof of notice of the requirement for and time and place of the inspection. An inspection shall not be required if **your insured motorcycle** is purchased new from a franchised **motorcycle** dealership and **we** are provided with

(i) a copy of the bill of sale which contains a full description of the **motorcycle**, including all options and accessories; or

(ii) a copy of the window sticker or advanced dealer shipping notice (invoice) showing the itemized options and equipment, the total retail price of the **motorcycle**, and any dealer installed options purchased by **you**; or

(iii) the buyer's order (contract) and/or the dealership invoice to the buyer, including all options and accessories.

No person shall be considered an **insured** person if that person uses a vehicle without a reasonable belief of having permission to use the vehicle, including, but not limited to, a person not licensed to operate a **motorcycle** or any other motor vehicle.

LOSS SETTLEMENT

We may pay for **loss** in money or repair or replace the damaged or stolen property. **We** may, at **our** expense, return any stolen property to:

(1) **You**; or

(2) The address shown in this policy.

If **we** return stolen property, **we** will pay for any damage resulting from the theft. **We** may keep all or part of the property at an agreed or appraised value.

If **we** pay for loss in money, **our** payment will include the applicable sales tax for the damaged or stolen property.

If **we** pay the amount necessary to repair the stolen or damaged property, **you** have the option to use either:

- (1) A motor vehicle repair facility that **we** have an arrangement with; or
 - (2) A motor vehicle repair facility of **your** choice;
- in any repairs to **your insured motorcycle**.

If **you** choose to use a motor vehicle repair facility, other than a repair facility that **we** have an arrangement with, **we** will pay **you** in accordance with the terms and conditions, including price, provided by the repair facility that **we** have an arrangement with.

ADDITIONAL DEFINITIONS USED IN THIS PART ONLY

As used in this Part:

- (1) **Actual Cash Value** is the lesser of (1) the replacement cost of the **motorcycle** or property less the **depreciation** and/or **betterment** and 2) the purchase price.
- (2) **Betterment** is improvement of the **motorcycle** or property to a greater value than its pre-loss condition.
- (3) **Collision** means the upset of **your insured motorcycle** or its impact with another vehicle or object. Damage caused by the following is “**other than collision**”:
 - (a) Missiles or falling objects;
 - (b) Fire;
 - (c) Theft or larceny;
 - (d) Explosion or earthquake;
 - (e) Hail, water, flood or wind;
 - (f) Malicious mischief or vandalism;
 - (g) Riot or civil commotion;
 - (h) Contact with a bird or animal;
 - (i) Lightning;
 - (j) Smoke; or
 - (k) Breakage of glass.

If breakage of glass is caused by a collision **you** may elect to have it considered a loss caused by collision.

- (4) **Depreciation** means a decrease or loss in value to the **motorcycle** or property because of use, disuse, physical wear and tear, age, outdatedness or other causes.
- (5) **Diminution in value** means the actual or perceived loss in market or resale value which results from a direct and accident loss.
- (6) **Loss** means tangible direct and accidental damage to **your insured motorcycle**, including its equipment when permanently attached, **resulting** immediately and proximately from the occurrence. Loss does not include loss that occurs as a

consequence of physical damage to **your insured motorcycle**, including **diminution in value**.

(7) **Theft** means the unlawful taking of **your insured motorcycle**.

EXCLUSIONS:

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

We do not cover loss under Coverage Part IV:

- (1) To **your insured motorcycle** while used to carry persons or property for a charge.
- (2) Caused by war (declared or undeclared), civil war, insurrection, rebellion, revolution, nuclear reaction, radiation or radioactive contamination, discharge of nuclear weapon (even if accidental) or any consequence of these.
- (3) Arising out of the use of **your insured motorcycle** in, or in the preparation for, a race, speed contest, hill climbing exhibition or any other contest or demonstration.
- (4) Sustained while **your insured motorcycle** is used on any race course or other facility designed for racing or practicing racing.
- (5) To any electronic equipment designed for the reproduction of sound and any accessories used with such equipment. This includes but is not limited to:
 - (a) Radios and stereos;
 - (b) Tape decks; or
 - (c) Compact disc players.

This exclusion ("5") does not apply to equipment designed solely for the reproduction of sound and accessories used with such equipment, provided:

- (a) The equipment is permanently installed in **your insured motorcycle**; or
 - (b) The equipment is:
 - (i) Removable from a housing unit which is permanently installed in the **motorcycle**;
 - (ii) Designed to be solely operated by use of the power from the **motorcycle's** electrical system; and
 - (iii) In or upon **your insured motorcycle** at the time of **loss**.
- (6) **Loss** to any electronic equipment that receives or transmits audio, visual or data signals and any accessories used with such equipment. This includes but is not limited to:
- (a) Citizens band radios;
 - (b) Telephones;
 - (c) Two-way mobile radios;
 - (d) Scanning monitor receivers;
 - (e) Television monitor receivers;
 - (f) Video cassette recorders;
 - (g) Audio cassette recorders; or
 - (h) Personal computers.

This exclusion ("6") does not apply to:

- (a) Any electronic equipment that is necessary for the normal operation of the **motorcycle** or the monitoring of the **motorcycle's** operating systems; or

- (b) A permanently installed telephone designed to be operated by use of the power from the **motorcycle's** electrical system and any accessories used with the telephone.
- (7) **Loss** to tapes, records, discs or other media used with equipment described in exclusions "5" and "6".
 - (8) To **your insured motorcycle** resulting from its abandonment by an **insured** person.
 - (9) To **your insured motorcycle** resulting from its use in illegal trade or transportation.
 - (10) Resulting from wear and tear; freezing, mechanical or electrical breakdown or failure, or road damage to tires, unless the loss results from the total **theft** of **your insured motorcycle**.
 - (11) Due to confiscation of **your insured motorcycle** by government or civil authority.
 - (12) To tools, clothing or personal effects.
 - (13) To optional or added equipment or parts not included as standard or basic by the manufacturer of **your insured motorcycle**.
 - (14) To saddle bags, and their mounting hardware; top carrier and their mounting hardware; luggage racks and their mounting hardware; whether or not these items are purchased as optional equipment or are factory installed. **Loss**, damage or destruction to these items is excluded from this policy, regardless of factory installation or being an integral part of **your insured motorcycle**.
 - (15) To **your insured motorcycle** while in the care, custody or control of anyone for the purpose of sale or in the intent to offer for sale after testing, restoration or other preparation.
 - (16) To **your insured motorcycle** due to conversion, embezzlement or secretion by any person in the possession of the **motorcycle**.
 - (17) For any claimed **diminution in value** after **your insured motorcycle** has been repaired.
 - (18) To a vehicle other than **your insured motorcycle**.
 - (19) To **your insured motorcycle** if it is or at any time becomes subject to any bailment, lease, conditional sale, purchase agreement, mortgages, or other encumbrances not specifically described in this Policy.
 - (20) To custom murals, printing or graphics.
 - (21) **Loss** of equipment designed or used for the detection of radar.

LIMITS OF LIABILITY

A. **Our** limit of liability for **loss** will be the lesser of the:

- (1) **Actual cash value** at the time of **loss** of the stolen or damaged property; or
- (2) Amount necessary to repair or replace the property with other property of like kind and quality.

B. An adjustment for **depreciation** and physical condition will be made in determining **actual cash value** in the event of a total loss.

C. If a repair or replacement results in better than like kind or quality, **we** will not pay for the amount of the **betterment**.

D. **We** will not include compensation for a **diminution in value** of the **motorcycle** or

property that is claimed to result from the **loss**.

APPRAISAL

If **we** cannot agree with **you** on the amount of **loss**, then **we** or **you** may demand appraisal of the **loss**. If appraisal is demanded, **you** and **we** shall each appoint a competent and impartial appraiser. Those appraisers will determine the amount of **loss**. If those appraisers cannot agree, the disagreement will be submitted to a competent and impartial umpire chosen by the appraisers. If the appraisers take more than 15 days to agree upon an umpire, then **we** or **you** may request that a judge of the Superior Court of the county in which the address shown on the Declaration Page is located will select an umpire. The appraisers and the umpire will then determine the amount of **loss**. The amount of **loss** agreed to by both appraisers or by one appraiser and the umpire will be binding. The award must be in writing. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses. **We** and **you** will equally share the fees and expenses of the umpire and all other expenses of the appraisal. **We** do not waive any of **our** rights under the policy by agreeing to an appraisal.

NO BENEFITS TO BAILEE

The insurance shall not in any way benefit any person or organization caring for or handling the property for a fee.

OTHER INSURANCE CLAUSE

If there is other applicable similar insurance on a **loss** covered by this Part, **we** will pay only that proportion of the **loss** that **our** limit of liability bears to the total limits of all applicable similar insurance. Any insurance **we** provide for a **motorcycle you** do not own or a **motorcycle** owned by **you** or **your relative** which is not insured for this coverage under this policy is excess over any other collectible insurance. The term "collectible insurance" includes any coverage provided by an organization or person through a program of self-insurance permitted by the law of the **state** in which the vehicle is registered.

OUR RIGHTS TO RECOVERY

If recovery is made by an **insured** (as that term is defined in Coverage Part II) person under this policy from another without **our** written consent and in violation of this section of the policy, the **insured** person's right to payment under any affected coverage will no longer exist.

COVERAGE PART V - UNINSURED AND UNDERINSURED MOTORIST COVERAGE

INSURING AGREEMENT

We will pay compensatory damages which an **insured** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** or **underinsured motor vehicle** where such coverage is indicated in the Declarations because of:

- (1) **Bodily injury** sustained by an **insured** and caused by an accident; and

- (2) **Property damage** caused by an accident except under paragraph "b." of the definition of **uninsured motor vehicle**.

The owner's or operator's liability for these damages must arise out of the ownership, maintenance or use of the **uninsured motor vehicle** or **underinsured motor vehicle**. We will pay damages under this coverage for an **underinsured motor vehicle** only after the limits of liability under any applicable liability bonds or policies have been exhausted by payment of judgment or settlement. Any judgment for damages arising out of a suit brought without **our** written consent is not binding on **us**.

DEFINITIONS USED IN THIS PART

- (1) **Insured** as used in this part for **uninsured motor vehicle** benefits means:
- (a) **You** or any **relative**.
 - (b) Any other person **occupying your insured motorcycle**. However, this person is only entitled to the minimum statutory limits of uninsured motorist coverage.
 - (c) Any person for damages that person is entitled to recover because of **bodily injury** to which this coverage applies sustained by a person described in "a." or "b." above.

No person shall be considered an **insured** person if that person uses **your insured motorcycle** without a reasonable belief of having permission to use it, including but not limited to, a person not licensed to operate a **motorcycle**.

- (2) **Insured** as used in this part for **underinsured motor vehicle** benefits means:
- (a) **You** or any **relative** while **occupying your insured motorcycle**.
 - (b) Any other person **occupying your insured motorcycle**. However, this person is not covered for **underinsured motor vehicle** benefits under this policy if the person is a named insured or a resident relative of a named insured under any other policy of motor vehicle insurance that provides underinsured motorists coverage, regardless of the limits of that policy and whether or not that policy is designated as excess or primary.
 - (c) Any person for damages that person is entitled to recover because of **bodily injury** to which this coverage applies, sustained by a person described in "a" or "b" above.

- (3) **Property damage** as used in this part means injury to or destruction of:
- (a) **Your insured motorcycle** or
 - (b) Any property owned by a person listed in "a." and "b." of **insured** while contained in **your insured motorcycle**.
- (4) **Underinsured motor vehicle** means the following:
- (a) With respect to an **insured** who:
 - (i) Is not the named insured under this policy; and
 - (ii) Is a named insured under one or more other policies providing similar coverage;

underinsured motor vehicle means a land motor vehicle or **trailer** of any type to which a liability bond or policy applies at the time of the accident but its limit for liability is less than the highest applicable limit of liability for this coverage under any insurance providing coverage to that **insured** as a named insured, including any limit

less than the limit specified in the New Jersey Financial Responsibility law. Any such **insured** described in this section is only entitled to coverage up to the minimum statutory limits for Uninsured/Underinsured Motorist Coverage.

(b) With respect to an **insured** who:

- (i) Is not the named insured under this policy or any other policy; and
- (ii) Is insured as a spouse or relative under one or more other policies providing similar coverage;

underinsured motor vehicle means a land motor vehicle or **trailer** of any type to which a liability bond or policy applies at the time of the accident but its limit for liability is less than the highest applicable limit of liability under any insurance providing coverage to that **insured** as a spouse or relative, including any limit less than the limit specified in the New Jersey Financial Responsibility law. Any such **insured** described in this section is only entitled to coverage up to the minimum statutory limits for Uninsured/Underinsured Motorist Coverage.

(c) With respect to any other **insured** not described in paragraphs "a." or "b." above, **underinsured motor vehicle** means a land motor vehicle or **trailer** of any type to which a liability bond or policy applies at the time of the accident but its limit for liability is less than the limit of liability for this coverage.

However, **underinsured motor vehicle** does not include:

(a) An **uninsured motor vehicle**.

(b) Any vehicle or equipment owned or operated by a self-insurer under any applicable motor vehicle law.

A motor vehicle shall not be considered an **underinsured motor vehicle** unless the limits of all **bodily injury** liability insurance or bonds applicable to that vehicle at the time of this accident have been exhausted by payment of settlements or judgments.

(5) **Uninsured motor vehicle** means a land motor vehicle or **trailer** of any type:

(a) To which no liability bond or policy applies at the time of the accident.

(b) Which, with respect to damages for **bodily injury** only, is a hit-and-run vehicle whose operator or owner cannot be identified and which hits, or causes an accident resulting in **bodily injury** without hitting:

(i) **You** or any **relative**;

(ii) A vehicle which **you** or any **relative** are **occupying**; or

(iii) **Your insured motorcycle**.

(c) To which a liability bond or policy applies at the time of the accident but the bonding or insuring company:

(i) Denies coverage; or

(ii) Is or becomes insolvent.

(d) Any automobile covered by a special insurance policy pursuant to New Jersey law or regulation. N.J.S.A. 17:28-1.1.

However, **uninsured motor vehicle** does not include:

(a) An **underinsured motor vehicle**.

(b) Any vehicle or equipment:

(i) Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer which is or becomes insolvent or denies coverage or

(ii) Insured under a basic automobile insurance policy issued in

accordance with New Jersey law or regulation, whether or not the policy includes the optional **bodily injury** coverage.

- (6) Neither **uninsured motor vehicle** nor **underinsured motor vehicle** includes any vehicle or equipment:
- (a) Owned by or furnished or available for the regular use of **you** or any **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 premises.

EXCLUSIONS:

YOU SHOULD READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS COVERAGE PART V-UNINSURED AND UNDERINSURED MOTORISTS COVERAGE.

A. **We** do not provide coverage under this part for **property damage** or **bodily injury** sustained by any person:

- (1) Who is an owner of a motor vehicle:
- (a) Insured under a basic automobile insurance policy or special 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 not insured for this coverage or any similar coverage.

This includes a **trailer** of any type used with a vehicle described in "a." and "b." above. However, this exclusion ("A. 1.") does not apply to **you** unless **you** are **occupying**, at the time of the accident, a motor vehicle described in "a." and "b." above.

- (2) If the **insured** or their legal representative settles any **bodily injury** or **property damage** claim with the owner or operator of an **uninsured motor vehicle** without **our** written consent.
- (3) For damages for pain, suffering and inconvenience resulting from **bodily injury** caused by an accident involving an **uninsured motor vehicle**, unless the injured **insured** has a legal right to recover damages for such pain, suffering and inconvenience under the New Jersey Automobile Reparation Reform Act. The injured **insured's** legal right to recover damages for pain, suffering and inconvenience under the New Jersey Automobile Reparation Reform Act will be determined by the liability tort limitation, if any, applicable to that **insured**.
- (4) Using a vehicle without a reasonable belief that that operator is entitled to do so, including, but not limited to, a person not licensed to operate a **motorcycle**.
- (5) For the first \$500 of the amount of **property damage** to the property of each **insured** as the result of any one accident. **We** do not cover **property damage** by a hit and run vehicle.
- (6) Acting with specific intent of causing injury to himself or others in operating or use of a **motorcycle**.
- (7) Any person who is convicted of, or pleads guilty to:
- (a) operating a motor vehicle while under the influence of an intoxicating liquor or narcotic, hallucinogenic or habit producing drug,

- (b) is later found to have a blood alcohol concentration by weight of alcohol in excess of the legal limit of the jurisdiction where the violation occurred, or
- (c) who refuses to submit to a chemical test after being arrested for operating a motor vehicle while under the influence of intoxicating liquor or a narcotic, hallucinogenic or habit producing drug.
- (8) When **your insured motorcycle** is being used to carry persons or property for a fee. This exclusion does not apply to share-the-expense car pool.
- (9) Arising out of the use of **your insured motorcycle**, in preparation for a race, speed contest, hill climbing exhibition or any other contest or demonstration.
- (10) While **your insured motorcycle** is used on any race course or other facility designed for racing or practicing racing.
- (11) For:
- (a) **bodily injury** sustained by **you** while **occupying**, or through being struck by, an **uninsured motor vehicle** or **underinsured motor vehicle** owned by **you** or
 - (b) **bodily injury** sustained by any of **your relatives** while **occupying**, or through being struck by, an **uninsured motor vehicle** or **underinsured motor vehicle** owned by that **relative**.
- B. This coverage shall not apply directly or indirectly to benefit:
- (1) Any insurer or self-insurer under any of the following or similar law:
 - (a) Workers' compensation law; or
 - (b) Disability benefits law.
 - (2) Any insurer of property.

C. **We** do not provide Uninsured or Underinsured Motorists Coverage for punitive or exemplary damages.

LIMITS OF LIABILITY

A. The **bodily injury** liability for “each person” is the maximum **we** will pay for all damages for **bodily injury** sustained by one person in one occurrence. The “each person” limit of liability includes 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 and 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 death.

Subject to the **bodily injury** liability limit for “each person,” the **bodily injury** liability limit for “each occurrence” is the maximum **we** will pay for all damages for **bodily injury** to two or more persons in one occurrence.

This is the most **we** will pay regardless of the number of:

- (1) **Insureds**;
- (2) Claims made;
- (3) Vehicles or premiums shown in the Declarations; or
- (4) Vehicles involved in the accident.

Any person qualifying as an **insured** under this policy and who is not the named **insured**, spouse or resident **relative** is limited to the minimum statutory coverage required by law and not those limits shown in the Declarations if greater than the minimum statutory

coverage but in no event will each person, each occurrence limit be increased.

In addition, subject to **our** maximum limit of liability for this coverage:

(1) If:

(a) An **insured** is not the named **insured** under this policy and is a named insured under one or more other policies providing similar coverage; and

(b) All such other policies have a limit of liability for similar coverage which is less than the limit of liability for this coverage;

then **our** maximum limit of liability for that **insured**, for all damages resulting from any one accident, shall not exceed the highest applicable limit of liability under any insurance providing coverage to that **insured** as a named insured.

(2) If:

(a) An **insured** is not the named **insured** under this policy or any other policy; and is insured as a spouse or relative under one or more other policies providing similar coverage; and

(b) All such other policies have a limit of liability for similar coverage which is less than the limit of liability for this coverage;

then **our** maximum limit of liability for that **insured**, for all damages resulting from any one accident, shall not exceed the highest applicable limit of liability under any insurance providing coverage to that **insured** as a spouse or relative.

As used in this section, similar coverage includes any UM/UIM policy issued in another **state** which may or may not be similar to New Jersey UM/UIM coverage.

All **bodily injury** arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one occurrence.

B. With respect to an accident with an **underinsured motor vehicle**, the limit of liability shall be reduced by all sums:

(1) Paid because of the **bodily injury** or **property damage** by or on behalf of persons or organizations who may be legally responsible. This includes all sums paid under Coverage Part II - Liability of this policy; and

(2) Paid because of the **property damage** under Coverage Part IV of this policy or any similar coverage under any other policy.

However, if an **insured** person enters into an agreement for an amount less than the sum of the limits of liability under an applicable **bodily injury** liability bonds and policies, **our** limit of liability for underinsured motorist coverage shall not exceed the difference between the damages sustained by the **insured** person and the sum of the applicable **bodily injury** liability bonds or policies.

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

(1) Coverage Part II - Liability of this policy; or

(2) Any Personal Injury Protection Coverage provided by this policy.

D. **We** will not make a duplicate payment under this coverage part for any element of loss for which payment has been made by or on behalf of persons or organizations who may be legally responsible. This includes all sums paid under Coverage Part II - Liability of the policy.

E. No payment will be made under this coverage for loss paid or payable under Coverage Part IV-Motorcycle Damage Coverage of this policy.

F. In determining the amount payable under uninsured motorist coverage, the amount of damages which an **insured** person is entitled to recover for **bodily injury** shall be reduced by all sums:

- (1) Paid because of **bodily injury** by or on behalf of any persons or organizations that may be legally responsible;
- (2) Paid or payable because of **bodily injury** under any of the following or similar laws:
 - (a) worker's compensation law;
 - (b) disability benefits law.

OTHER INSURANCE

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

(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:

(a) If an **insured** is:

- (i) A named insured under one or more policies providing the same or similar coverage; and
- (ii) Not **occupying** a vehicle owned by that **insured**;

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

(b) If an **insured** is:

- (i) Not a named **insured** under this policy or any other policy; and
- (ii) Insured as a spouse or relative under one or more policies providing the same or similar coverage;

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

(2) The maximum Uninsured motorist coverage **we** provide for accidents where you are the operator of or a passenger in a vehicle **you** do not own, or a vehicle owned by **you** or **your** relative which is not listed on the Declarations Page of this policy, shall be \$15,000 per person/\$30,000 per occurrence.

(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.
- (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 other applicable out of **state** uninsured motorist or underinsured motorist coverage, any insurance **we** provide will be excess over any such collectible insurance.
- (5) Uninsured and Underinsured motorist coverage only provides benefits for an accident occurring in the United States or Canada.

CONSENT TO BE BOUND

No judgment or settlement for damages arising out of a lawsuit brought against an operator or owner of an **underinsured motor vehicle** shall be binding against **us** unless **we**:

- (1) Receive reasonable notice of the filing of the lawsuit resulting in the judgment; and
- (2) Had a reasonable opportunity to protect **our** interests in the lawsuit.

ARBITRATION

A. If **we** and an **insured** do not agree:

- (1) Whether that **insured** is legally entitled to recover damages; or
- (2) As to the amount of damages which are recoverable by that **insured**;

from the owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle**, then the matter may be arbitrated. However, disputes concerning coverage under this Part may not be arbitrated, unless **we** and the person making the claim agree to do so in writing. Disputes involving coverage are to be decided by the Superior Court of the county where the address shown on the Declaration page is located.

Either party may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction.

B. Each party will:

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

C. Unless both parties agree otherwise, arbitration will take place in the county in where the address shown on the Declarations page is located. Local rules of law as to procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding as to whether the **insured** is legally entitled to recover damages and the amount of damages unless the arbitration award exceeds the minimum limit for liability specified by the Financial Responsibility Law of New Jersey. If the arbitration award exceeds that limit, either party may demand the right to a trial by jury on all issues of liability and damages. This demand must be made within 60 days of the arbitrators' decision. If this demand is

not made, the amount of damages agreed to by the arbitrators will be binding.

COVERAGE PART VI - GENERAL PROVISIONS

POLICY TERRITORY

The policy territory is, with respect to:

- (1) **Pedestrian** personal injury protection coverage: accidents occurring in New Jersey
- (2) Uninsured and underinsured motorist coverage: accidents occurring in the United States or Canada; and
- (3) As to all other coverage parts, the policy territory is The United States of America, its territories and possessions; Puerto Rico; and Canada. This policy also applies to loss to, or accidents involving, **your insured motorcycle** while being transported between their ports.

PREMIUM

The premium for this policy is computed in accordance with **our** rules, rates, rating plans, premiums and minimum premiums applicable to the insurance afforded.

We have relied upon the information **you** provided to **us** to determine the amount **you** must pay **us**. **You** agree to pay all additional premium due if this information is:

- (1) Incorrect;
- (2) Incomplete; or
- (3) Changes during the policy period.

CHANGES

This policy and the Declarations include all agreements between **you** and **us** relating to this insurance. No change or waiver may be affected in this policy except by endorsement issued by us. If there is a change to the information used to develop the policy premium, we may adjust **your** premium.

Changes during the policy term that may result in a premium increase or decrease include, but are not limited to, changes in:

- (1) The number, type or use classification of **insured** vehicles;
- (2) Operators using **insured** vehicles;
- (3) The place of principal garaging of the **insured** vehicles;
- (4) Coverage, deductible, or limits.

You are required to inform **us** of these changes when they occur. If a change requires a premium adjustment, **we** will make the premium adjustment in accordance with **our** manual rules. If **we** make a change which broadens coverage under this edition of **your** policy without an additional premium charge, that change will automatically apply to **your** policy as of the date **we** implement the change in **your state**. This paragraph does not apply to changes implemented with a general program revision that includes both broadening and restrictions in coverage, whether that general program revision is implemented through introduction of a subsequent edition of **your** policy, or an amendatory endorsement.

TWO OR MORE MOTORCYCLES INSURED

With respect to an accident or occurrence to which this and any other **motorcycle** policy

we issue to **you** applies, the total limit of **our** liability under all policies shall not exceed the highest applicable limit under any one policy.

SUIT AGAINST US

We may not be sued under any Coverage Part in this policy unless there is full compliance with all the terms of this policy. **We** may not be sued under the liability coverage part until the obligation of an **insured** person to pay is fully determined either by final judgment against that person after actual trial or by written agreement of that person, the claimant and **us**. No one shall have the right to make **us** a party to a suit 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 RECOVERY RIGHTS

A. If **we** make a payment under this policy and the person to or for whom payment was made has a right to recover damages from another, **we** shall be subrogated to that right. That person shall do:

- (1) Whatever is necessary to enable **us** to exercise **our** rights; and
- (2) Nothing after loss to prejudice them.

However, **our** rights under this paragraph (“A”) do not apply under coverage Part 4 **motorcycle** damage coverage against any person using **your insured motorcycle** with a reasonable belief that that person is entitled to do so.

B. If **we** make a payment under this policy and the person to or for whom payment is made recovers damages from another, that person shall:

- (1) Hold in trust for **us** the proceeds of the recovery; and
- (2) Reimburse **us** to the extent of **our** payment.

ASSIGNMENT

A. **Your** rights and duties under this policy may not be assigned without **our** written consent. However, if a named **insured** shown in the Declarations dies, coverage will be provided for:

- (1) The surviving spouse or partner under a civil union considered valid under New Jersey law if residing in the same household at the time of death. Coverage applies to the spouse as if a named **insured** shown in the Declaration; and
- (2) The legal representative of the deceased person as if a named **insured** shown in the Declarations. This applies only with respect to the representative’s legal responsibility to maintain or use **your insured motorcycle**.

B. Coverage will only be provided until the end of the policy period.

BANKRUPTCY

We are not relieved of any obligation under this policy because of the bankruptcy or insolvency of an **insured** person.

MISREPRESENTATION OR FRAUD

We will cancel this policy if **you** misrepresent any material fact or circumstance relating to this insurance at the time the application is made or when an endorsement is sought. In

that case, **you** and any lienholder for **you** shall not be entitled to coverage under Part IV or Part V of this policy, retroactive to the date the misrepresentation was made. Coverage is also not provided to any person who qualifies as an **insured** under this policy who knowingly conceals or misrepresents any material fact or circumstance relating to this insurance in connection with the presentation or settlement of a claim.

CANCELLATION OR NON-RENEWAL OF THIS POLICY

A. Cancellation

This policy may be cancelled during the policy period as follows:

- (1) The named **insured** shown in the Declarations may cancel by:
 - (a) Returning this policy to **us**; or
 - (b) Giving **us** advance written notice of the date cancellation is to take effect.
- (2) **We** may cancel by mailing by certified mail or United States Post Office certificate of mailing to the named **insured** shown in the Declarations at the address shown in this policy:
 - (a) At least 20 days notice if notice is mailed during the first 60 days this policy is in effect and this is not a renewal or continuation policy; or
 - (b) At least 15 days but not more than 30 days notice if cancellation is for nonpayment of premium; or
 - (c) At least 20 days notice in all other cases.
- (3) After this policy is in effect for 60 days, or if this is a renewal or continuation policy, **we** will cancel only:
 - (a) For nonpayment of premium; or
 - (b) If **your** driver's license or that of (i) any driver who lives with **you**, or (ii) any driver who customarily uses **your insured motorcycle**, has been suspended or revoked for one or more convictions for serious motor vehicle violations as set forth in N.J.A.C. 11:3-35.

This must have occurred:

 - (i) During the policy period; or
 - (ii) Since the last anniversary of the original effective date if the policy period is other than one year.

B. If **we** decide not to renew or continue this policy, **we** will mail notice by certified mail or United States Post Office certificate of mailing to the named **insured** shown in the Declarations at the address shown in this policy. Notice will be mailed at least 60 days before the end of the policy period.

C. Subject to these notice requirements:

We will have the right not to renew or continue this policy at each anniversary of its original effective date.

Upon cancellation **you** may be entitled to a premium refund. If so, **we** will send it to **you** but the making or offer of a refund is not a condition of cancellation. If **you** cancel, the refund will be computed in accordance with the customary accelerated short rate table and procedure. If **we** cancel, the refund will be computed on a pro rata basis. The effective date of cancellation stated in a notice is the end of the policy period.

This policy will automatically terminate at the end of the policy period if **you** or **your** representative does not accept **our** offer to renew or continue it. **Your** failure to pay the required renewal premium means that **you** have declined **our** offer.

If other insurance is obtained on **your insured motorcycle**, similar insurance afforded under this policy for that **motorcycle** will cease on the effective date of the other insurance. In addition, any coverage afforded under this policy will cease when a person other than **you** or a **relative** becomes the owner of that **motorcycle**.

If different requirements for cancellation and non-renewal or termination of policies are required because of the laws of **your state**, **we** will comply with those requirements.

PROOF OF MAILING

Proof of mailing of a notice is proof of notice.