CANCELLATION AND *NONPAYMENT OF PREMIUM* PROVISIONS (COMMERCIAL LINES INSURANCE)

The following conditions relating to Cancellation, Renewal and Nonrenewal are applicable to all policies subject to Chapter 220 of the Laws of 1986—Insurance Law—section 3426.

If ***your*** policy contains the General Policy Provisions Agreement (ML-20 edition date 1/87) then for the purposes of this Cancellation and Renewal Provisions endorsement (commercial), the following changes are made in ***your*** policy:

1) Conditions 3-11 in the section entitled, Conditions Applicable to All Coverages are renumbered as Conditions 4-12;
2) Conditions 12-16 in the section entitled, Conditions Applicable to Property Coverages Only are renumbered as Conditions 13-17.

Recognizing the renumbering of the conditions as stated in paragraphs 1) and 2) above, then Condition 2 of the ML-20 (1/87) is deleted and replaced by Condition 2 of this Endorsement. Condition 3 of this Endorsement is hereby added to ***your*** policy.

If ***your*** policy contains an ML-20 (7/78); ML-20 (9/84) or FL-20 (11/79) then Condition 2—Cancellation, and Condition 3—NonRenewal are deleted and replaced by Conditions 2 and 3 of this Endorsement.

2. ***Cancellation***
   a. By ***You***—***You*** may cancel this policy at any time by giving ***us*** written notice or returning the policy to ***us*** and stating when thereafter the Cancellation is to be effective.
   b. By ***Us***—***We*** may cancel this policy by written notice delivered to or mailed to ***you*** at the address shown in the policy (and to ***your*** authorized agent or broker if required). Proof of delivery or mailing is sufficient proof of notice.
   This notice must be delivered or mailed the required number of days prior to the effective date of the ***cancellation***. For a description of the number of days of required notice, refer to: ***(1) Nonpayment of Premium, (2) New Policy or (3) All Other Situations.***
   c. ***When We May Cancel—We*** may cancel this policy under the following conditions:
      (1) ***Nonpayment of Premium***—If the premium has not been paid when due, ***we*** may cancel at any time by delivering or mailing ***you*** the required notice at least fifteen days before cancellation is effective. Payment by ***you*** to the insurer, or to an agent or broker authorized to receive such payment, shall be considered timely if made within fifteen days after the mailing to ***you*** of a notice of cancellation for ***nonpayment of premium***.
      (2) ***New Policy***—If this is a new policy which has been in effect less than sixty days, ***we*** may cancel for any reason by delivering or mailing the required notice to the first named ***insured*** at the mailing address shown in the policy at least twenty days before cancellation is effective. If upon review during this time period, ***we*** find that a statutory provision/provisions for cancellation applies/apply, ***we*** may cancel this policy by mailing written notice to the first named ***insured*** at the mailing address shown in the policy at least fifteen days before cancellation is effective.
      (3) ***All Other Situations***—After a ***covered policy*** has been in effect for sixty days, or upon the effective date if such policy is a ***renewal,*** no notice of cancellation shall become effective until fifteen days after notice is delivered or mailed to the ***insured*** and such cancellation is based on one or more of the following statutory provisions:
         (A) ***Nonpayment of premium***;
         (B) Conviction of a crime arising out of acts increasing the hazard insured against;
         (C) Discovery of fraud or material misrepresentation in the obtaining of the policy or in the presentation of a claim thereunder;
         (D) After issuance of the policy or after the last ***renewal*** date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against and which occurred subsequent to inception of the current policy period;
         (E) Material physical change in the property insured, occurring after issuance or last annual ***renewal*** anniversary date of the policy, which results in the property becoming uninsurable in accordance with

the insurer's objective, uniformly applied underwriting standards in effect at the time the policy was issued or last ***renewed;*** or material change in the nature or extent of the risk, occurring after issuance or last annual ***renewal*** anniversary date of the policy, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last ***renewed***;

(F) Required pursuant to a determination by the superintendent that continuation of the present premium volume of the insurer would jeopardize that insurer's solvency or be hazardous to the interests of policyholders of the insurer, its creditors or the public;

(G) A determination by the superintendent that the continuation of the policy would violate or would place the insurer in violation of the law;

(H) Where the insurer has reason to believe, in good faith and with sufficient cause, that there is a probable risk or danger that the ***insured*** will destroy, or permit to be destroyed, the ***insured*** property for the purpose of collecting the insurance proceeds, provided, however, that:

(i) a notice of cancellation on this ground shall inform the ***insured*** in plain language that the ***insured*** must act within ten days if review by the Insurance Department of the ground for cancellation is desired pursuant to item (iii) of this subparagraph (H); and

(ii) notice of cancellation on this ground shall be provided simultaneously by the insurer to the Insurance Department; and

(iii) upon written request of the ***insured*** made to the department within ten days from the ***insured's*** receipt of notice of cancellation on this ground, the Insurance Department shall undertake a review of the ground for ***cancellation*** to determine whether or not the insurer has satisfied the criteria for ***cancellation*** specified in this subparagraph; if after such review the department finds no sufficient cause for ***cancellation*** on this ground, the notice of cancellation on this ground shall be deemed null and void.

(I) With respect to professional liability insurance policies, revocation or suspension of the ***insured's*** license to practice ***his/her*** profession or, if the ***insured*** is a hospital, it no longer possesses a valid operating certificate under section twenty-eight hundred one—a of the public health law.

d. ***We*** refund the premium for the unexpired policy period on a pro rata basis.

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

f. ***Loss Notice***—The company must advise the first named ***insured*** that he/she is entitled to loss information upon written request.

3. ***Renewal/ /Nonrenewal***

3a. ***Nonrenewal—We*** may elect not to ***renew*** or continue this policy by delivering or mailing to ***you*** and ***your*** authorized agent or broker written notice of ***our*** intent not ***to renew***.

a. Such notice must:

(1) be given at least sixty but not more than one hundred twenty days in advance of the end of the ***required policy period***.

(2) state ***our*** specific reason(s) for nonrenewal.

(3) be delivered or mailed to ***you*** at the address shown in the policy and to ***your*** authorized agent or broker. Proof of delivery or mailing is sufficient proof of notice.

(4) ***Loss Notice***—The company must advise the first named ***insured*** that ***he/she*** is entitled to loss information upon written request.

(5) Requirements for nonrenewal shall not apply if the named ***insured,*** or an agent or broker authorized by the named ***insured,*** or another insurer of the named ***insured*** has delivered or mailed written notice that the policy has been replaced or is no longer desired.

b. Prior to the expiration date of this policy, in the event that a late nonrenewal notice is provided by the insurer, the coverage under this policy shall remain in effect:

(1) at the same ***terms*** and conditions contained in the expiring policy; and

(2) at the lower of the current rates or the prior period's rates

until sixty days after the notice is delivered or mailed unless the ***insured*** elects to cancel sooner.

c. In the event that a timely and substantially complete notice is not provided by the insurer prior to the expiration date of the policy, coverage shall remain in effect:

(1) on the same ***terms*** and conditions of the expiring policy;

(2) for another ***required policy period;*** and

(3) at the lower of the current rates or the prior period's rates.

However, if the insurer has established the standards and procedures required by the law relating to notice requirements, and the failure to comply with these standards and procedures is a result of inadvertence or

clerical mistake, then the rates applicable to the remainder of the additional ***required policy period*** shall be the insurer's current rates at the ***terms*** and conditions of the expiring policy.

d. The issuance of a late or incomplete nonrenewal notice by the insurer shall not create a new annual aggregate liability limit (if any) for the covered policy, except that the annual aggregate limit of the expiring policy shall be increased in proportion to the policy extension, including any additional ***required policy period,*** caused by the late or incomplete notice of nonrenewal.

e. If the insurer provides a timely notice of nonrenewal and thereafter the insurer extends the policy for ninety days or less, an additional notice of nonrenewal is not required with respect to the extension period.

3b. ***Conditional Renewal—We*** may elect ***to renew*** or continue this policy under certain conditions. ***We*** may do so by delivering or mailing ***you*** and ***your*** authorized agent or broker written notice.

a. This notice must:
   (1) be delivered or mailed to ***you*** at least sixty but not more than one hundred twenty days in advance of the end of the ***required policy period***;
   (2) contain specific reason(s) for the conditional renewal;
   (3) set forth the amount of any premium change if the increase is in excess of 10% unless the increase is due to increased insured values and/or increased coverages; or is due to experience rating, retrospective rating or audit;
   (4) set forth the nature of any proposed change(s) in the policy such as change(s) in limits, change(s) in type(s) of coverage(s), reduction(s) in coverage(s), increased deductible or the addition of an exclusion or exclusions;
   (5) be delivered or mailed to the named ***insured*** at the address listed in the policy and to an authorized agent or broker of the ***insured***. Proof of delivery or mailing is sufficient proof of notice; and
   (6) include a statement advising the first named ***insured*** that upon written request the company will provide loss information.

b. Prior to the expiration date of the policy, in the event that an incomplete or late conditional ***renewal*** notice is provided by the insurer, the coverage under this policy shall remain in effect at:
   (1) the same ***terms*** and conditions of the expiring policy, and
   (2) the lower of the current rates or the prior period's rates

   until sixty days after the notice is delivered or mailed unless the ***insured*** elects to cancel sooner.
   However, if the ***insured*** elects to accept the ***terms***, conditions and rates of the conditional ***renewal*** notice and renews the policy on that basis, then such ***terms***, conditions and rates shall govern the policy upon expiration of such sixty-day period.

c. In the event that a timely and substantially complete conditional ***renewal*** notice is not provided by the insurer prior to the expiration date of the policy, then coverage under the policy:
   (1) remains in effect for an additional ***required policy period;***
   (2) remains at the same ***terms*** and conditions as the expiring policy; and
   (3) the rates for the additional policy period will be the lower of the current rates or the previous period's rates.

   However, if the insurer has established the standards and procedures required by law relating to notice requirements, and the failure to comply with these standards and procedures is a result of inadvertence or clerical mistake, then the rates applicable to the remainder of the additional ***required policy period*** shall be the insured's current rates at the ***terms*** and conditions of the expiring policy.

d. The issuance of a late or incomplete conditional ***renewal*** notice by the insurer shall not create a new annual aggregate limit (if any) for the covered policy, except that the annual aggregate limit of the expiring policy shall be increased in proportion to the policy extensions including any additional ***required policy period,*** caused by the late or incomplete conditional ***renewal*** notice.
   However, if the ***insured*** accepts the ***terms*** of a conditional ***renewal*** offer, a new annual aggregate shall become effective as of the inception date of the ***renewal***.

3c. ***Alternate Renewal Notice Procedure***—During the period of time the insurer is assessing its option(s) as to whether to nonrenew or conditionally renew a policy, the insurer must notify the ***insured*** and ***his/her*** authorized agent or broker.

   a. This notice must contain the following:
      (1) The notice must be delivered or mailed at least sixty days prior to the expiration date of the policy;
      (2) the notice must be delivered or mailed to the named ***insured*** at the address in the policy and to an authorized agent or broker of the ***insured***;
      (3) The notice must advise the ***insured*** that the policy will be either nonrenewed or renewed at different ***terms***, conditions, or rates;
      (4) The notice must advise the ***insured*** that a ***SECOND NOTICE*** will be sent at a later date;

(5) The notice must advise the ***insured*** that coverage will continue at the same ***terms***, conditions and rates until the later of:
   (a) the expiration date, or
   (b) 60 days after the ***SECOND NOTICE*** *is* delivered or mailed.

(6) The ***SECOND NOTICE*** sent to the ***insured*** must advise the ***insured****:*
   (a) of the specific reason or reasons for nonrenewal or conditional ***renewal***, and
   (b) of the amount of any premium increase if the increase is in excess of 10% and the nature of any other proposed changes.

(7) The ***SECOND NOTICE*** must advise the first named ***insured*** that ***he/she*** is entitled to loss information upon written request.

(8) If a substantially complete ***SECOND NOTICE*** *is* not delivered or mailed until after the expiration date of the policy, the ***insured*** *is* entitled to coverage under the policy:
   (a) For an additional ***required policy period***;
   (b) At the same ***terms*** and conditions as the existing policy; and
   (c) At the lower of the current rates or the rates of the previous period.

   However, if the insurer has established the standards and procedures required by law relating to notice requirements, and the failure to comply with these standards and procedures is a result of inadvertence or clerical mistake, then the rates applicable to the remainder of the additional ***required policy period*** shall be the ***insured's*** current rates at the ***terms*** and conditions of the expiring policy.

(9) No notice is necessary if the insurer receives a written notice from the ***insured, his/her*** authorized agent or broker, or another insurer that the policy is no longer desired or has been replaced.

3d. ***Policies written for a term of less than one year***-For policies issued to an ***insured*** for a seasonal purpose or to a policy issued to cover a particular project that will be performed in less than one year, the following provisions apply:

a. During the first sixty days such policy is in effect, no cancellation shall become effective until twenty days after written notice is delivered or mailed to the ***insured*** at the mailing address shown in the policy;

b. After a policy has been in effect for sixty days, no notice of cancellation shall become effective until fifteen days after notice is delivered or mailed and such cancellation is based on one or more of the statutory provisions set forth in this form.

c. After a policy has been in effect for sixty days, no premium increase for the ***term*** of the policy shall be made to become effective unless due to and commensurate with ***insured*** value added, subsequent to issuance pursuant to the policy or at the ***insured's*** request.

DEFINITIONS

(1) "***Covered policy"*** means, for purposes of this section, a policy of commercial risk insurance, professional liability insurance or public entity insurance.

(2) "***Required policy period"*** *means* a period of one year from the date as of which a covered policy is renewed or first issued.

(3) *"**Nonpayment of premium**"* means the failure of the named ***insured*** to discharge any obligation in connection with the payment of premiums on a policy of insurance or any installment of such premium, whether the premium is payable directly to the insurer or its agent, or indirectly under any premium finance plan or extension of credit. Payment to the insurer, or to an agent or broker authorized to receive such payment, shall be timely for the purpose of this section if made within fifteen days after the mailing to the ***insured*** of a notice of cancellation for nonpayment of premium.

(4) "***Renewal" or " to renew"*** means the issuance or offer to issue by an insurer of a policy superseding a policy previously issued and delivered by the same insurer, or another insurer within the same group or under common management, or the issuance or delivery of a certificate or notice extending the ***term*** of a policy beyond its policy period or ***term***; provided, however, that any policy with a policy period or ***term*** of less than one year shall, for the purpose of this section, be considered as if written for a policy period or ***term*** of one year, and any policy with no fixed expiration date or with a policy period or ***term*** of more than one year shall be considered as if written for successive policy periods or ***terms*** of one year.