

RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 11. INSURANCE DEPARTMENT
Chapter III — POLICY AND CERTIFICATE PROVISIONS
Subchapter B. Property and Casualty Insurance
Part 60. Minimum Provisions for Automobile Liability Insurance Policies and Supplementary Uninsured Motorists Insurance
(Regulation 35-E)
Subpart 60-3. Transportation Network Companies: Minimum Provisions for Policies and Other Requirements

§ 60-3.0 Purpose.

Parallel Citations *Regulation 35-E*

The purpose of this Subpart is to establish the minimum policy provisions and other requirements with respect to any policy issued in satisfaction of the financial responsibility requirements of Vehicle and Traffic Law article 44-B and a group policy issued pursuant to Insurance Law section 3455.

Statutory Authority - Insurance Law, §§ 201, 301 and 3420 and Laws of 2017, Chapter 59, Part AAA.

§ 60-3.1 Definitions.

Unless otherwise stated or required in context:

(a) In this Part:

(1) *Article 44-B policy* means an insurance policy or endorsement to an owner's policy of liability insurance that provides financial responsibility coverage pursuant to Vehicle and Traffic Law article 44-B¹ while:

(i) the TNC driver is logged onto the TNC's digital network but is not engaged in a TNC prearranged trip;

¹ Section 1693 of Article 44-B contains the financial responsibility requirements of transportation network companies.

(ii) the TNC driver is engaged in a TNC prearranged trip; or

(iii) the TNC driver is logged onto the TNC's digital network but is not engaged in a TNC prearranged trip and while the TNC driver is engaged in a TNC prearranged trip.

(2) *Group policy* means an insurance policy issued pursuant to Insurance Law section 3455².

(3) *Individual Policy* means a policy or endorsement to a policy issued to a TNC driver.

(4) *Named insured* means, with respect to a group policy, a TNC or, with respect to a certificate under the group policy, the TNC driver to whom a certificate of insurance is issued under the group policy.

(b) In this Title:

(1) *Digital network* shall have the meaning set forth in Vehicle and Traffic Law section 1691(2)³.

(2) *Owner's policy of liability insurance* means the insurance policy required pursuant to Vehicle and Traffic Law section 311⁴.

(3) *TNC prearranged trip or trip* shall have the meaning set forth in Vehicle and Traffic Law section 1691(6)⁵.

(4) *Transportation network company or TNC* shall have the meaning set forth in Vehicle and Traffic Law section 1691(3)⁶.

² Section 3455 contains the requirements for a transportation network company group policy.

³ "(A)ny system or service offered or utilized by a transportation network company that enables TNC prearranged trips with transportation network company drivers."

⁴ Vehicle and Traffic Law Section 311 requires registered vehicles to carry automobile liability and other types of insurance.

⁵ "(T)he provision of transportation by a transportation network company driver to a passenger provided through the use of a TNC's digital network: ... (i) beginning when a transportation network company driver accepts a passenger's request for a trip through a digital network controlled by a transportation network company; (ii) continuing while the transportation network company driver transports the requesting passenger in a TNC vehicle; and (iii) ending when the last requesting passenger departs from the TNC vehicle." The term does not include: "(i) shared expense carpool or vanpool arrangements, including those as defined in section one hundred fifty-eight-b of this chapter; and (ii) use of a taxicab, livery, luxury limousine, or other for-hire vehicle ..."

⁶ "A person, corporation, partnership, sole proprietorship, or other entity that is licensed pursuant to (Article 44-B) and is operating in New York state exclusively using a digital network to connect transportation network company passengers to transportation network company drivers who provide TNC prearranged trips."

(5) *Transportation network company driver or TNC driver* shall mean an individual who:

(i) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(ii) Uses a TNC vehicle to offer or provide a TNC prearranged trip to transportation network company passengers upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

(6) *Transportation network company vehicle or TNC vehicle* shall have the meaning set forth in Vehicle and Traffic Law section 1691(1)⁷.

Statutory Authority - Insurance Law, §§ 201, 301 and 3420 and Laws of 2017, Chapter 59, Part AAA.

60-3.2 General provisions.

(a)(1) In addition to the mandatory liability provisions specified in this Subpart, every article 44-B policy shall provide coverage, as required by Vehicle and Traffic Law Article 44-B, in accordance with the provisions of Insurance Law section 3420, Insurance Law article 51, Subpart 60-2 of this Part (Insurance Regulation 35-D), and Part 65 of this Part (Insurance Regulation 68) and such other requirements as may be applicable⁸.

(2)(i) A policy issued in satisfaction of the financial responsibility requirements of Vehicle and Traffic Law section 1693(2)(a) and regulations promulgated thereunder shall provide all of the coverages as specified in paragraph (1) of this section while a TNC driver is logged onto the TNC's digital network but is not engaged in a TNC prearranged trip.

(ii) A policy issued in satisfaction of the financial responsibility requirements of Vehicle and Traffic Law section 1693(3)(a) and regulations promulgated

⁷ "(A) vehicle that is: ... (a) used by a transportation network company driver to provide a TNC prearranged trip originating within the state of New York; and (b) owned, leased or otherwise authorized for use by the transportation network company driver ..." The term does not include: "(i) a taxicab... (ii) a livery vehicle ... (iii) a black car, limousine, or luxury limousine ... (iv) a for-hire vehicle ... (v) a bus ... (vi) any motor vehicle weighing more than six thousand five hundred pounds unloaded; (vii) any motor vehicle having a seating capacity of more than seven passengers; and (viii) any motor vehicle subject to section three hundred seventy of (the Vehicle and Traffic Law) (requires certain public transportation vehicles to be bonded)."

⁸ Section 3420 and Regulation 35-D contain the requirements for liability insurance uninsured and underinsured motorists insurance. Article 51 and Regulation 68 contain the requirements for personal injury protection (a/k/a "no-fault") insurance.

thereunder shall provide all of the coverages as specified in paragraph (1) of this section while a TNC driver is engaged in a TNC prearranged trip.

(iii) A policy issued in satisfaction of the financial responsibility requirements of Vehicle and Traffic Law section 1693(2)(a) and (3)(a) and regulations promulgated thereunder shall provide all of the coverages as specified in paragraph (1) of this section while a TNC driver is logged onto the TNC's digital network but is not engaged in a TNC prearranged trip and while the TNC driver is engaged in a TNC prearranged trip.

(3) A policy as provided in paragraph (2)(i), (ii) or (iii) of this subdivision may also provide other coverages; provided that a group policy may only provide the coverages specified in Insurance Law section 3455(c)(2) and must provide coverage as provided in paragraphs 2(i), (ii) or (iii) of this subdivision.

(b) Except as provided in section 60-3.8 of this Subpart:

(1) no insurer may issue an article 44-B policy unless the insurer is authorized to do an insurance business in this state;

(2) all policy forms, rating classifications, and territories shall be approved by the superintendent pursuant to Insurance Law section 2307 and shall not qualify for an exemption from filing under Insurance Law section 6301; and

(3) all rates, rating plans, rating rules, or rating manuals shall be submitted to the superintendent and shall be subject to prior approval pursuant to Insurance Law section 2305.

(c)(1) An insurer shall include on the declarations page of an article 44-B policy one of the following statements as applicable:

(i) that the policy is in compliance with the financial responsibility requirements of Vehicle and Traffic Law section 1693(2)(a) and regulations promulgated thereunder but does not provide coverage as provided under Vehicle and Traffic Law section 1693(3)(a);

(ii) that the policy is in compliance with the financial responsibility requirements of Vehicle and Traffic Law section 1693(3)(a) and regulations promulgated thereunder; but does not provide coverage as provided under Vehicle and Traffic Law section 1693(2)(a); or

(iii) that the policy is in compliance with the financial responsibility requirements of Vehicle and Traffic Law section 1693(2)(a) and (3)(a) and regulations promulgated thereunder.

(2) An insurer that issues a group policy also shall include the statement as applicable on the certificates issued to the group members.

(d)(1) When facilitating the sharing of information under Vehicle and Traffic Law section 1695(6), an insurer shall comply with Insurance Law section 3420(d), Part 420

of this Title (Insurance Regulation 169)⁹, and all other applicable state and federal laws and regulations governing privacy and the release of consumer financial and health information.

(2) Unless the insurer will not dispute that the driver was logged onto the TNC's digital network or was engaged in a TNC prearranged trip at the time of the accident, within five business days of receipt of a claim involving a driver, an insurer that issued an article 44-B policy shall request from the TNC:

(i) the precise times that the driver logged on and off of the TNC's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident; and

(ii) the precise times that the driver was engaged in a prearranged trip in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident.

(3) The insurer shall, within five business days of receipt of the information, provide to any claimant and any other insurer providing coverage for the TNC vehicle, including the insurer that issued the owner's policy of liability insurance:

(i) the information received from the TNC pursuant to paragraph (2) of this subdivision; and

(ii) a clear description of the coverage, exclusions, and limits under its article 44-B policy.

(4) The TNC shall, within ten business days of receipt of a request from a driver, insurer, claimant, or other TNC regarding an accident, provide:

(i) the precise times that the driver logged on and off of the TNC's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident; and

(ii) the precise times the driver was engaged in a prearranged trip in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident.

Statutory Authority - Insurance Law, §§ 201, 301 and 3420 and Laws of 2017, Chapter 59, Part AAA.

§ 60-3.3 Mandatory liability provisions.

An article 44-B policy shall contain in substance the following minimum provisions or provisions that are equally or more favorable to the insured and judgment creditors, so far as such provisions relate to judgment creditors:

(a)(1) If the policy provides coverage while a driver is logged onto the TNC's digital network but is not engaged in a TNC prearranged trip: insurance against loss from the

⁹ Regulation 169 pertains to privacy of non-public personal information.

liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person, and injury to or destruction of property arising out of the ownership, maintenance, use or operation of a specific motor vehicle or vehicles within this state, or elsewhere in the United States in North America or Canada, subject to a limit, exclusive of interest and costs, with respect to each such occurrence, of at least \$75,000 because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of at least \$150,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of at least \$25,000 because of injury to or destruction of property of others in any one accident;

(2) If the policy provides coverage while a driver is engaged in a TNC prearranged trip: insurance against loss from the liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person, and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of a specific motor vehicle or vehicles within this state, or elsewhere in the United States in North America or Canada, subject to a limit, exclusive of interest and costs, with respect to each such occurrence, of at least \$1,250,000 because of bodily injury to or death of one or more persons, and injury to or destruction of property; or

(3). If the policy provides coverage while a driver is logged onto the TNC's digital network but is not engaged in a TNC prearranged trip and while a driver is engaged in a TNC prearranged trip, the policy shall provide coverage as specified in both paragraphs (1) and (2) of this subdivision.

(b) With respect to such insurance as is afforded, the insurer, subject to the policy terms shall: defend any suit, with the right to make such investigation, negotiation and settlement as it deems expedient; pay all premiums on attachment bonds and appeal bonds; pay all expenses incurred by the company, all costs taxed against the insured in any such suit, and all interest accruing after entry of judgment until the insurer has paid or tendered or deposited in court such part of such judgment as does not exceed the applicable policy limits; pay expenses incurred by the insured for first aid to others at the time of accident; and reimburse the insured for reasonable expenses other than loss of earnings, incurred at the company's request. The amounts so incurred under this subdivision, except settlement of claims and suits, shall be payable by the company in addition to the applicable policy limits.

(c) When the policy is an individual policy, a provision:

(1) insuring as "insured":

(i) the named insured, his or her spouse if a resident of the same household with respect to the motor vehicle or vehicles;

(ii) any other person using the motor vehicle with the permission of the named insured or such spouse provided his or her actual operation or (if he or she is not operating) his or her other actual use thereof is within the scope of such permission; and

(iii) any other person or organization but only with respect to his, her or its liability because of acts or omissions of an insured within subparagraph (i) or

(ii) of this paragraph. As respects any person or organization other than the named insured or such spouse the policy need not apply:

(a) to any person or organization, or to any agent or employee thereof, employed or otherwise engaged in operating an automobile sales agency, repair shop, service station, storage garage or public parking place, with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith;

(b) to any employee with respect to injury, sickness, disease or death of a fellow employee injured in the course of his or her employment in an accident arising out of the maintenance or use of the motor vehicle in the business of their common employer; or

(c) to any person or organization, or to any agent or employee thereof, with respect to bodily injury, sickness, disease or death, or injury to or destruction of property arising out of the loading or unloading of the motor vehicle. The insurance shall apply separately to each insured against whom claim is made or suit is brought, provided the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability;

(2) while:

(i) the motor vehicle is used by a TNC driver while logged onto a TNC's digital network but is not engaged in a TNC prearranged trip;

(ii) a TNC driver is engaged in a TNC prearranged trip; or

(iii) the motor vehicle is used by a TNC driver while logged onto the TNC's digital network but is not engaged in a TNC prearranged trip or while a TNC driver is engaged in a TNC prearranged trip.

(d) When the policy is a group policy issued to a TNC, a provision:

(1) insuring as "insured":

(i) the named insured, his or her spouse if a resident of the same household with respect to the motor vehicle or vehicles;

(ii) and any other person using the motor vehicle; and

(iii) any other person or organization but only with respect to his, her or its liability because of acts or omissions of an insured within subparagraph (i) or (ii) of this subdivision. As respects any person or organization other than the named insured or such spouse the policy need not apply:

(a) to any person or organization, or to any agent or employee thereof, employed or otherwise engaged in operating an automobile sales agency, repair shop, service station, storage garage or public parking place, with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith;

(b) to any employee with respect to injury, sickness, disease or death of a fellow employee injured in the course of his or her employment in an accident arising out of the maintenance or use of the motor vehicle in the business of their common employer; or

(c) to any person or organization, or to any agent or employee thereof, with respect to bodily injury, sickness, disease or death, or injury to or destruction of property arising out of the loading or unloading of the motor vehicle. The insurance shall apply separately to each insured against whom claim is made or suit is brought, provided the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability;

(2) while:

(i) a TNC driver is logged onto that TNC's digital network but is not engaged in a TNC prearranged trip;

(ii) a TNC driver is engaged in a TNC prearranged trip for that TNC; or

(iii) the motor vehicle is used by a TNC driver while logged onto that TNC's digital network but is not engaged in a TNC prearranged trip or while a TNC driver is engaged in a TNC prearranged trip.

(e)(1) With regard to an individual policy, a provision that the policy shall afford bodily injury and property damage liability insurance for:

(i) any other vehicle of which the named insured acquires ownership, leases, or otherwise is authorized to use provided it replaces the TNC vehicle described in the policy or the company insures all automobiles owned by the named insured or his spouse on the delivery date;

(ii) any motor vehicle, used with the permission of the owner, and not owned by the named insured or his or her spouse or any resident of the same household, which is temporarily substituted for the said motor vehicle while withdrawn from service because of breakdown, servicing, repair, loss or destruction; or

(iii) the incidental use of a motor vehicle not owned by the named insured or a member of the insured's household, nor furnished or available for their regular use, provided the actual operation or other actual use thereof is with the permission of the owner and is within the scope of such permission.

(2) With regard to a group policy, a provision that the group policy shall afford bodily injury and property damage liability insurance for:

(i) any other vehicle of which the insured acquires ownership, leases, or otherwise is authorized to use provided it replaces the insured's TNC vehicle described in the policy;

(ii) any motor vehicle, used with the permission of the owner, and not owned by the insured or his or her spouse or any resident of the same

household, which is temporarily substituted for the TNC vehicle while withdrawn from service because of breakdown, servicing, repair, loss or destruction; or

(iii) the incidental use of a motor vehicle not owned by the named insured or a member of the insured's household, nor furnished or available for their regular use, provided the actual operation or other actual use thereof is with the permission of the owner and is within the scope of such permission.

(3) With regard to an individual policy, a provision required by paragraphs (1) of this subdivision need not apply:

(i) to any accident arising out of the maintenance or use of a motor vehicle by a person employed or otherwise engaged in the business of a motor vehicle sales agency, repair shop, service station, storage garage or public parking place; or

(ii) with respect to a newly acquired motor vehicle, to any loss against which the driver has other valid and collectible insurance in satisfaction of Vehicle and Traffic Law article 44-B.

(4) With regard to a group policy, a provision required by paragraph (2) of this subdivision need not apply to any accident arising out of the maintenance or use of a motor vehicle by a person employed or otherwise engaged in the business of a motor vehicle sales agency, repair shop, service station, storage garage or public parking place.

(f) A provision that when a motor vehicle is used or operated in any other state or Canadian province, a policy currently in effect or hereafter issued shall provide at least the minimum amount and kind of coverage that is required in such cases under the laws of such other jurisdiction. Any policy not containing such provision shall nevertheless be deemed to provide such coverage. This provision is not intended to create a duplication of coverage or benefits to the extent that a New York insured carries additional coverages under any automobile or motor vehicle insurance policy or is covered under an automobile or motor vehicle policy of a resident of the jurisdiction wherein an injury occurs.

(g) A provision that the insurer will not provide coverage for any insured who intentionally causes, or directs another person to cause, bodily injury or property damage.

(h) Either of the following provisions:

(1) The insurer shall not be liable for a greater proportion of the loss than the applicable limit of liability of the policy bears to the total applicable limit of liability of all other valid and collectible insurance covering the insured against such loss; provided, however, with respect to a TNC vehicle, other than a newly acquired motor vehicle, for which insurance is provided under subdivision (d) of this section, the insurance shall be excess insurance over any other valid and collectible insurance.

(2) The insurance afforded by this policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the insured has other insurance that is stated to be applicable to the loss on an excess or contingent basis, the amount of the company's liability under this policy shall not be reduced by the existence of such other insurance. When both this insurance and other insurance apply to the loss on the same basis, whether primary, excess or contingent, the company shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

(i) Contribution by equal shares. If all of such other valid and collectible insurance provides for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than would be payable if each insurer contributes an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.

(ii) Contribution by limits. If any of such other insurance does not provide for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

With respect to the maintenance or use of hired motor vehicles and nonowned motor vehicles, this insurance shall apply only as excess insurance over any other valid and collectible insurance available to the insured.

(i)(1) Except as provided in paragraph (2) of this subdivision, a provision that if the insurer cancels the policy, at least 20 days prior written notice shall be mailed or delivered to the named insured, except where the cancellation is for nonpayment of premium in which case 15 days' notice of cancellation by the insurer shall be sufficient.

(2) If the article 44-B policy is a group policy and the insurer cancels the policy, then the insurer must provide written notice in conformance with Insurance Law section 3455.

Statutory Authority - Insurance Law, §§ 201, 301 and 3420 and Laws of 2017, Chapter 59, Part AAA.

§ 60-3.4 Exclusions.

An article 44-B policy may contain in substance the following exclusions:

(a) While the TNC vehicle is used as a public or livery conveyance, provided that the use of the vehicle pursuant to Vehicle and Traffic Law article 44-B shall not be deemed to be use as a public or livery conveyance.

(b) Liability assumed by the insured under any contract or agreement.

(c) Bodily injury to or sickness, disease or death of any employee of the insured arising out of and in the course of:

(1) domestic employment by the insured, if benefits therefor are in whole or in part either payable or required to be provided under any workers' compensation law; or

(2) other employment by the insured.

(d) Any obligation for which the insured or the insured's insurer may be held liable under any workers' compensation, unemployment compensation or disability benefits law, or any similar law.

(e) Injury to or destruction of property owned by the insured or property rented to or in charge of the insured or property as to which the insured is for any purpose exercising physical control.

(f) Bodily injury, sickness, disease or death, or injury to or destruction of property due to war, whether or not declared civil war, insurrection, rebellion or revolution, or any act or condition incident to any of the foregoing.

(g) To the extent the Federal Tort Claims Act provides coverage and protection when the insured vehicle is being operated in the course of employment by an agent, servant, or employee of the United States government, its territories, possessions, political subdivisions, agencies or other independent governmental corporations.

Statutory Authority - Insurance Law, §§ 201, 301 and 3420 and Laws of 2017, Chapter 59, Part AAA.

§ 60-3.5 Discretionary provisions.

Such an article 44-B policy may also contain in substance the following provisions:

(a) that written notice of accident, claim or suit is required;

(b) that the insurer is subrogated to any rights of recovery of the insured;

(c) that the terms of the policy may not be waived or changed except as stated in the policy;

(d) that the insurer's consent is necessary to any assignment of interest under the policy;

(e) that the insured will cooperate with the insurer;

(f) that no action shall lie against the insurer unless the insured shall have complied with all the terms of the policy, nor until the amount of the insured's obligation to pay

shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant and the insurer;

(g) that the insurer issues the policy upon the reliance of the insured's declarations and that the policy contains all agreements between the insured and the insurer and any of its agents relating to the insurance;

(h) a provision relating to the insurer's own method of doing business; and

(i) that notice to the insurer of delivery of a newly acquired additional motor vehicle or an election to insure it under a specific policy is required.

Statutory Authority - Insurance Law, §§ 201, 301 and 3420 and Laws of 2017, Chapter 59, Part AAA.

§ 60-3.6 Payments to insured.

For the purpose of complying with the provisions of Insurance Law section 3420(f)(1), no article 44-B policy subject to this Part shall be issued by any insurer unless it contains coverage providing for payments to the insured, as defined in such coverage, by the New York Motor Vehicle Accident Indemnification Corporation, pursuant to the provisions of Insurance Law article 52 applicable to such payments.

Statutory Authority - Insurance Law, §§ 201, 301 and 3420 and Laws of 2017, Chapter 59, Part AAA.

§ 60-3.7 Group policy requirements.

(a) The insurer shall be responsible for mailing or delivery of a certificate of insurance to each group member in accordance with Insurance Law section 3455(h).

(b) Until January 1, 2019, a group policy shall provide that the group policy is primary over a policy issued in satisfaction of Vehicle and Traffic Law article 6 and in accordance with section 60-3.3(g)(2) of this Part; provided, however, that if there is a policy issued in satisfaction of Vehicle and Traffic Law article 6 or endorsement thereto that satisfies the financial responsibility requirements of Vehicle and Traffic Law article 44-B, then the group policy may be stated to apply in excess of or contingent upon the absence of other insurance as provided in section 60-3.3(g)(2) of this Part.

(c) Pursuant to Vehicle and Traffic Law section 1693(5), if insurance maintained by a driver pursuant to Vehicle and Traffic Law section 1693(2) and (3) has lapsed or does not provide the required coverage, then the group policy maintained by a TNC shall provide the coverage required by Vehicle and Traffic Law section 1693 beginning with the first dollar of a claim and the insurer shall have the duty to defend such claim.

(d) No group policy or certificate shall contain any deductible or self-insured retention with respect to liability, no-fault or supplementary uninsured/underinsured motorist coverage.

(e) No group policy or certificate shall be subject to a group or sub-group aggregate liability limit of any kind at any time, and any liability limit applicable to a group member shall:

(1) be separate and apart from any liability limit to which any other group member insured under the group policy may be subject; and

(2) operate unaffected by the experience of any other group member or the overall experience of the group itself.

(f) Group policy forms and rates of an authorized insurer shall comply with Insurance Law article 23 standards, and no such rates shall be excessive, inadequate, unfairly discriminatory, destructive of competition, detrimental to solvency, or otherwise unreasonable, subject to the following factors:

(1) advantages may be considered, based on actual or reasonably anticipated loss and expense experience of the group or its members, where such advantages and experience can be fairly demonstrated; and

(2) rates, rating plans or rating rules recognizing loss differences on a group basis, in comparison to like risks not in the group, shall be deemed rating classifications subject to the superintendent's approval pursuant to Insurance Law section 2307.

(g) Except with respect to requiring a TNC driver to be insured under the group policy required by Article 44-B of the Vehicle and Traffic Law, no insurer shall provide coverage in regard to a group program that:

(1) requires the purchase of insurance as a condition of group membership; or

(2) imposes any penalty upon a group member if insurance is not purchased.

(h) No insurer shall provide coverage in regard to a group if:

(1) the purchase of any good or service from the group or sponsoring entity is a condition of purchasing insurance by a group member; or

(2) the purchase of insurance by a group member is a condition of purchasing any good or service from the group or sponsoring entity.

Statutory Authority - Insurance Law, §§ 201, 301 and 3420 and Laws of 2017, Chapter 59, Part AAA.

§ 60-3.8 Excess line policies.

(a)(1) In accordance with Vehicle and Traffic Law section 1693(7)(b), a TNC group policy may be procured by a licensed excess line broker pursuant to Insurance Law section 2118 and regulations thereunder if the insurance is unavailable from authorized insurers. The excess line broker shall obtain declinations from three authorized insurers as provided in section 27.3 of Part 27 of this Title (Insurance

Regulation 41). The excess line broker may not utilize the procedure specified in section 27.3(g) or (h) of this Part.

(2) The declinations obtained pursuant to section 27.3 of Part 27 of this Title shall be valid for one year and apply to all of the drivers insured under the group policy with respect to coverages provided without option by the group policyholder. The affidavit by a broker or an excess line broker, evidencing the requisite number of declinations, shall be executed and filed by the licensee on behalf of the group policyholder. The excess line broker shall not renew the group policy with the unauthorized insurer unless the excess line broker obtains three declinations in accordance with the provisions of section 27.3 of Part 27 of this Title.

(3) The excess line broker shall provide a written affirmation to the TNC of the unavailability of coverage from an authorized insurer annually.

(b) Prior to procuring a group policy from an unauthorized insurer, an excess line broker shall obtain a written commitment from the unauthorized insurer that the insurer shall:

(1) cooperate with the superintendent with regard to any inquiry or request for information pertaining to the group policy or any claim submitted thereunder;

(2) comply with the requirements of Part 216 of this Title (Insurance Regulation 64)¹⁰;

(3) use licensed adjusters to investigate or adjust claims submitted under the group policy;

(4) and maintain records in accordance with Part 243 of this Title (Insurance Regulation 152) and maintain the privacy of consumers and customers in accordance with Part 420 of this Title (Insurance Regulation 169).

Statutory Authority - Insurance Law, §§ 201, 301 and 3420 and Laws of 2017, Chapter 59, Part AAA.

§ 60-3.9 Notice by motor vehicle insurers.

Every insurer writing motor vehicle liability insurance in satisfaction of the financial requirements of Vehicle and Traffic Law article 6 or motor vehicle physical damage insurance shall provide an annual written notice to the named insured under such a policy advising the named insured whether, or to what extent, it provides coverage under the policy while the vehicle is being used as a TNC vehicle pursuant to Vehicle and Traffic Law article 44-B. The notice shall also state whether the insurer makes such coverage available on an optional basis.

Statutory Authority - Insurance Law, §§ 201, 301 and 3420 and Laws of 2017, Chapter 59, Part AAA.

¹⁰ Unfair Claims Settlement Practices and Claim Cost Control Measures.