

SERFF Tracking Number: NYLA-125789904 State: Arkansas  
Filing Company: New York Life Insurance and Annuity Corporation State Tracking Number: 40425  
Company Tracking Number: 208-190  
TOI: A03I Individual Annuities - Deferred Variable Sub-TOI: A03I.002 Flexible Premium  
Product Name: VA PR-2008  
Project Name/Number: VA PR-2008/208-190

## Filing at a Glance

Company: New York Life Insurance and Annuity Corporation

Product Name: VA PR-2008

SERFF Tr Num: NYLA-125789904 State: ArkansasLH

TOI: A03I Individual Annuities - Deferred Variable

SERFF Status: Closed

State Tr Num: 40425

Sub-TOI: A03I.002 Flexible Premium

Co Tr Num: 208-190

State Status: Approved-Closed

Filing Type: Form

Co Status:

Reviewer(s): Linda Bird

Author: Gerald DeNicola

Disposition Date: 10/22/2008

Date Submitted: 10/02/2008

Disposition Status: Approved

Implementation Date Requested: On Approval

Implementation Date:

State Filing Description:

## General Information

Project Name: VA PR-2008

Status of Filing in Domicile: Pending

Project Number: 208-190

Date Approved in Domicile:

Requested Filing Mode: Review & Approval

Domicile Status Comments:

Explanation for Combination/Other:

Market Type: Individual

Submission Type: New Submission

Group Market Size:

Overall Rate Impact:

Group Market Type:

Filing Status Changed: 10/22/2008

Deemer Date:

State Status Changed: 10/22/2008

Corresponding Filing Tracking Number:

Filing Description:

This filing is for three new Flexible Premium Deferred Variable Annuity policies, four new Flexible Premium Deferred Variable Annuity applications and four revised riders and one new rider.

## Company and Contact

### Filing Contact Information

SERFF Tracking Number: NYLA-125789904 State: Arkansas  
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Corporation  
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TOI: A03I Individual Annuities - Deferred Variable Sub-TOI: A03I.002 Flexible Premium  
Product Name: VA PR-2008  
Project Name/Number: VA PR-2008/208-190

Naomi Quick, Contract Consultant naomi\_quick@newyorklife.com  
1 Rockwood Road (914) 846-5789 [Phone]  
Sleepy Hollow, NY 10591

**Filing Company Information**

New York Life Insurance and Annuity Corporation CoCode: 91596 State of Domicile: Delaware  
1 Rockwood Road Group Code: 826 Company Type:  
3N851  
Sleepy Hollow, NY 10591 Group Name: State ID Number:  
(914) 846-3508 ext. [Phone] FEIN Number: 13-3044743  
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## Filing Fees

Fee Required? Yes  
Fee Amount: \$150.00  
Retaliatory? Yes  
Fee Explanation: 3 Policies x \$50 each = \$150  
Per Company: No

| COMPANY   | AMOUNT   | DATE PROCESSED | TRANSACTION # |
|---|----------|----------------|---------------|
| New York Life Insurance and Annuity Corporation | \$150.00 | 10/02/2008     | 22873518      |

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## Correspondence Summary

### Dispositions

| Status   | Created By | Created On | Date Submitted |
|----------|------------|------------|----------------|
| Approved | Linda Bird | 10/22/2008 | 10/22/2008     |

### Objection Letters and Response Letters

| Objection Letters               |            |            |                | Response Letters |            |                |
|---------------------------------|------------|------------|----------------|------------------|------------|----------------|
| Status                          | Created By | Created On | Date Submitted | Responded By     | Created On | Date Submitted |
| Pending<br>Industry<br>Response | Linda Bird | 10/13/2008 | 10/13/2008     | Gerald DeNicola  | 10/21/2008 | 10/21/2008     |

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## Disposition

Disposition Date: 10/22/2008

Implementation Date:

Status: Approved

Comment:

Rate data does NOT apply to filing.

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 Product Name: VA PR-2008  
 Project Name/Number: VA PR-2008/208-190

| Item Type           | Item Name                                  | Item Status | Public Access |
|---------------------|--|-------------|---------------|
| Supporting Document | Certification/Notice                       |             | Yes           |
| Supporting Document | Application                                |             | No            |
| Supporting Document | Life & Annuity - Actuarial Memo            |             | No            |
| Supporting Document | Actuarial Memorandum - Riders              |             | No            |
| Supporting Document | Statement of Variability - Policies        |             | Yes           |
| Supporting Document | Statement of Variability - Applications    |             | Yes           |
| Supporting Document | Cover Letter                               |             | Yes           |
| Supporting Document | Filing Fee                                 |             | Yes           |
| Supporting Document | Guaranty Association Act                   |             | Yes           |
| Supporting Document | Inquiry Notice 20247                       |             | Yes           |
| Supporting Document | Inquiry Notice 42011                       |             | Yes           |
| Supporting Document | NAIC Transmittal                           |             | Yes           |
| Supporting Document | Response Letter                            |             | Yes           |
| Form                | Flexible Premium Deferred Variable Annuity |             | Yes           |
| Form                | Flexible Premium Deferred Variable Annuity |             | Yes           |
| Form                | Flexible Premium Deferred Variable Annuity |             | Yes           |
| Form                | Deferred Variable Annuity                  |             | Yes           |
| Form                | Deferred Variable Annuity                  |             | Yes           |
| Form                | Deferred Variable Annuity                  |             | Yes           |
| Form                | Deferred Variable Annuity                  |             | Yes           |
| Form                | Investment Protection Plan Rider           |             | Yes           |
| Form                | Annual Death Benefit Reset Rider           |             | Yes           |
| Form                | Enhanced Beneficiary Benefit               |             | Yes           |
| Form                | Enhance Spousal Continuance Rider          |             | Yes           |
| Form                | Breakpoint Credit Rider                    |             | Yes           |

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## Objection Letter

Objection Letter Status Pending Industry Response  
Objection Letter Date 10/13/2008  
Submitted Date 10/13/2008

Respond By Date

Dear Naomi Quick,

This will acknowledge receipt of the captioned filing.

### Objection 1

- Certification/Notice (Supporting Document)

Comment: Filings of variable annuity contracts should be accompanied by an assurance that Regulation 6 has been reviewed and that the company is in compliance.

Please feel free to contact me if you have questions.

Sincerely,

Linda Bird

## Response Letter

Response Letter Status Submitted to State  
Response Letter Date 10/21/2008  
Submitted Date 10/21/2008

Dear Linda Bird,

### Comments:

#### Response 1

Comments: Attached is the response letter stating that Regulation 6 has been reviewed and that the company is in compliance.

Thank you.

Jerry DeNicola

#### Related Objection 1

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**Applies To:**

- Certification/Notice (Supporting Document)

**Comment:**

Filings of variable annuity contracts should be accompanied by an assurance that Regulation 6 has been reviewed and that the company is in compliance.

**Changed Items:**

**Supporting Document Schedule Item Changes**

Satisfied -Name: Response Letter

**Comment:**

No Form Schedule items changed.

No Rate/Rule Schedule items changed.

Sincerely,  
Gerald DeNicola

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## Form Schedule

Lead Form Number: 208-190

| Review Status | Form Number          | Form Type    | Form Name   | Action  | Action Specific Data                              | Readability | Attachment                                      |
|---------------|----------------------|--------------|---|---------|---|-------------|---|
|               | 208-190              | Policy/Cont  | Flexible Premium<br>ract/Fratern<br>al Annuity<br>Certificate<br>Deferred Variable          | Revised | Replaced Form #:<br>204-191<br>Previous Filing #: |             | Policy-208-190-Access<br>3-Final.pdf            |
|               | 208-191              | Policy/Cont  | Flexible Premium<br>ract/Fratern<br>al Annuity<br>Certificate<br>Deferred Variable          | Initial |   |             | Policy-208-191-Smart<br>Value VA-<br>Final.pdf  |
|               | 208-192              | Policy/Cont  | Flexible Premium<br>ract/Fratern<br>al Annuity<br>Certificate<br>Deferred Variable          | Initial |   |             | Policy-208-192-Extra<br>Credit VA-<br>Final.pdf |
|               | 208-594              | Application/ | Deferred Variable<br>Enrollment<br>Form<br>Annuity  | Initial |   |             | Application-<br>208-594-<br>Final.pdf           |
|               | 208-598              | Application/ | Deferred Variable<br>Enrollment<br>Form<br>Annuity  | Initial |   |             | Application-<br>208-598-<br>Final.pdf           |
|               | 208-599              | Application/ | Deferred Variable<br>Enrollment<br>Form<br>Annuity  | Initial |   |             | Application-<br>208-599-<br>Final.pdf           |
|               | 208-600              | Application/ | Deferred Variable<br>Enrollment<br>Form<br>Annuity  | Initial |   |             | Application-<br>208-600-<br>Final.pdf           |
|               | 999-302<br>(11/2008) | Certificate  | Investment<br>Amendmen<br>t, Insert<br>Page,<br>Endorseme<br>nt or Rider<br>Protection Plan | Revised | Replaced Form #:<br>999-302<br>Previous Filing #: |             | IPP Rider-<br>999-302 (11-<br>2008).pdf         |
|               | 203-305              | Certificate  | Annual Death Benefit  | Revised | Replaced Form #:                                  |             | ADBR Rider-                                     |

|                                 |   |   |                                     |
|---------------------------------|---|---|-------------------------------------|
| <i>SERFF Tracking Number:</i>   | <i>NYLA-125789904</i>   | <i>State:</i>   | <i>Arkansas</i>                     |
| <i>Filing Company:</i>          | <i>New York Life Insurance and Annuity Corporation</i>  | <i>State Tracking Number:</i>   | <i>40425</i>                        |
| <i>Company Tracking Number:</i> | <i>208-190</i>  |   |                                     |
| <i>TOI:</i>                     | <i>A03I Individual Annuities - Deferred Variable</i>  | <i>Sub-TOI:</i>   | <i>A03I.002 Flexible Premium</i>    |
| <i>Product Name:</i>            | <i>VA PR-2008</i>   |   |                                     |
| <i>Project Name/Number:</i>     | <i>VA PR-2008/208-190</i>   |   |                                     |
|                                 | (11/2008) Amendmen Reset Rider<br>t, Insert<br>Page,<br>Endorseme<br>nt or Rider  | 203-305 (8/2004)<br>Previous Filing #:                                | 203-305 (11-2008).pdf               |
|                                 | 203-304 Certificate Enhanced<br>(11/2008) Amendmen Beneficiary Benefit<br>t, Insert<br>Page,<br>Endorseme<br>nt or Rider      | Revised Replaced Form #:<br>201-304 and 203-304<br>Previous Filing #: | EBB Rider-203-304 (11-2008).pdf     |
|                                 | 203-303 Certificate Enhance Spousal<br>(11/2008) Amendmen Continuance Rider<br>t, Insert<br>Page,<br>Endorseme<br>nt or Rider | Revised Replaced Form #:<br>201-303 and 203-303<br>Previous Filing #: | ESC Rider-203-303 (11-2008).pdf     |
|                                 | 209-311 Certificate Breakpoint Credit<br>Amendmen Rider<br>t, Insert<br>Page,<br>Endorseme<br>nt or Rider                     | Initial   | Breakpoint Credit Rider-209-311.pdf |



ANNUITANT- - JOHN DOE  
POLICY NUMBER- -00 000 000  
POLICY DATE- -JANUARY 1, 2009

## NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

(A Delaware Corporation)

Home Office  
[200 Continental Drive, Suite 306]  
[Newark, Delaware 19713]

Executive Office  
[51 Madison Avenue]  
[New York, NY 10010]

**THE CORPORATION** New York Life Insurance and Annuity Corporation (NYLIAC), a stock company incorporated in Delaware, will pay the benefits of this Flexible Premium Deferred Variable Annuity (the "Policy") in accordance with its provisions. The following pages are also a part of this Policy.

**PAYMENT OF PREMIUMS** At any time before the Annuity Commencement Date and while you are living, premiums may be paid at any interval or by any method we make available. Premium Payments are subject to the limitations defined in this Policy. The initial Premium Payment is shown on the Policy Data Page.

**INCOME PAYMENTS** On the Annuity Commencement Date, the Accumulation Value will be applied to provide periodic Income Payments, as stated in the Income Payments Section.

**DEATH BENEFIT** If you die before the Annuity Commencement Date, we will pay death benefit proceeds to the Beneficiary upon our receipt of Proof of Death and all claim information.

**RIGHT TO RETURN POLICY** Please examine this Policy. Within 10 days (or longer if required by state law) after delivery, you may return it to the Corporation or to the registered representative through whom it was purchased, along with a written request for a cancellation. Upon receipt of this request, we will promptly cancel this Policy and refund this Policy's Accumulation Value. The amount refunded to you may be more or less than the Premium Payment(s). In states where required, we will promptly refund the Premium Payment(s) less any Partial Withdrawals.

**REPORT TO OWNER** At least once each Policy Year, and within sixty (60) days of the end of the reporting period, NYLIAC will provide a report that will tell you how much Accumulation Value there is as of the end of the reporting period. It will also give you any other facts for this Policy required by state law or regulations. The Corporation will mail the report to your last known address.

The Issue Date is shown on the Policy Data Page.

**TOLL FREE #** [800-598-2019]

  
President

  
Secretary

[New York Life Access Variable Annuity]

(A Flexible Premium Deferred Variable Annuity)

Periodic Income Payments Begin On The Annuity Commencement Date.  
Premiums May Be Paid While You Are Living, As Defined In This Policy.

**THE ACCUMULATION VALUE MAY INCREASE OR DECREASE BASED ON THE INVESTMENT EXPERIENCE OF THE SEPARATE ACCOUNT.**

**ACCUMULATION VALUES BASED ON THE PERFORMANCE OF THE SEPARATE ACCOUNT ARE VARIABLE AND ARE NOT GUARANTEED AS TO DOLLAR AMOUNT.**

This Policy Is Non-Participating.

**READ THIS POLICY CAREFULLY.** It is a legal contract between the Owner and the Corporation.

208-190

**SPECIMEN COPY**

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

HOME OFFICE –  
[200 Continental Drive, Suite 306]  
[NEWARK, DELAWARE 19713]

EXECUTIVE OFFICE –[51 MADISON AVENUE]  
[NEW YORK, NY 10010]

**POLICY DATA PAGE**

|                      |    |                   |           |        |
|----------------------|----|-------------------|-----------|--------|
| <b>ANNUITANT</b>     | -- | [JOHN DOE]        | AGE: [55] | [MALE] |
| <b>POLICY NUMBER</b> | -- | [00 000 000]      |           |        |
| <b>POLICY DATE</b>   | -- | [JANUARY 1, 2009] |           |        |
| <b>OWNER</b>         | -- | [THE ANNUITANT]   | AGE: [55] | [MALE] |
| <b>PLAN</b>          | -- | [NON-QUALIFIED]   |           |        |

**ALLOCATION ALTERNATIVES AVAILABLE:**  
(See Next Page)

**PREMIUM PAYMENT:**  
Initial Premium Payment: [\$10,000]  
Initial Premium Payment Date: [January 1, 2009]

**INTEREST RATE:**  
Guaranteed Minimum Interest Rate – Fixed Account: [1.0%] (Annual Effective Rate)  
Nonforfeiture Rate: [1.70%]

**ANNUITY COMMENCEMENT DATE:** [January 1, 2044]

**DATE OF ISSUE:** [February 5, 2009]

**POLICY DATA PAGE**

(Page 2 Cont'd.)

**ALLOCATION ALTERNATIVES**

***INVESTMENT DIVISIONS***

MainStay VP Balanced  
MainStay VP Bond  
MainStay VP Capital Appreciation  
MainStay VP Cash Management  
MainStay VP Common Stock  
MainStay VP Conservative Allocation Port  
MainStay VP Convertible  
MainStay VP Developing Growth  
MainStay VP Floating Rate  
MainStay VP Government  
MainStay VP Growth Allocation Portfolio  
MainStay VP High Yield Corporate Bond  
MainStay VP ICAP Select Equity Portfolio  
MainStay VP International Equity  
MainStay VP Large Cap Growth  
MainStay VP Mid-Cap Core  
MainStay VP Mid-Cap Growth  
MainStay VP Mid-Cap Value  
MainStay VP Moderate Allocation Port  
MainStay VP Moderate Growth Allocation  
MainStay VP S&P 500 Index  
MainStay VP Small-Cap Growth  
MainStay VP Total Return

CVS Calvert Social Balanced  
Columbia Small Cap Value Fund Variable Series  
Dreyfus IP Technology Growth  
Fidelity VIP Contrafund  
Fidelity VIP Equity-Income  
Fidelity VIP Mid Cap  
Janus Aspen Series Balanced  
Janus Aspen Series Worldwide Growth  
MFS Investors Trust Series  
MFS Research Series  
MFS Utilities Series  
Neuberger Berman AMT Mid Cap Growth  
Royce Micro-Cap Portfolio – Inv Cls  
Royce Small-Cap Portfolio – Inv Cls  
T. Rowe Price Equity Income Portfolio  
Van Eck Worldwide Hard Assets  
Van Kampen UIF Emerging Markets Equity  
Victory VIF Diversified Stock

***FIXED ACCOUNT***

**DATE OF ISSUE:** [February 5, 2009]

**POLICY DATA PAGE**  
(Page 2 Cont'd.)

**MINIMUMS:**

|  |            |
|--|------------|
| Additional Premium Payment:  | \$1,000    |
| Partial Withdrawal amount:   | \$500      |
| Accumulation Value after a Partial Withdrawal:   | \$2,000    |
| Premium Payment amount allocated to an Allocation Alternative:                         | \$25       |
| Transfer amount to an Investment Division:   | \$25       |
| Transfer amount from an Investment Division:   | \$500      |
| Balance that must be maintained in an Investment Division after a transfer:            | \$500      |
| Transfer amount to or from the Fixed Account:  | \$500      |
| Balance that must be maintained in the Fixed Account after a transfer:                 | \$25       |
| Traditional Dollar Cost Averaging Option transfer amount:                              | \$100      |
| Accumulation Value required to elect the Traditional Dollar Cost Averaging Option:     | \$2,500    |
| Automatic Asset Reallocation Option transfer amount:                                   | No Minimum |
| Variable Accumulation Value required to elect the Automatic Asset Reallocation Option: | \$2,500    |
| Interest Sweep Option transfer amount:   | No Minimum |
| Fixed Account Accumulation Value required to elect the Interest Sweep Option:          | \$2,500    |

**MAXIMUMS:**

|  |             |
|--|-------------|
| Cumulative Premium Payments:   | \$1,000,000 |
| Age for which additional Premium Payments may be made:                         | 80          |
| Percentage of each Premium Payment that may be allocated to the Fixed Account: | 25%         |

**Transfers:**

Transfer amount, in any one Policy Year, from the Investment Divisions to the Fixed Account (including the Traditional Dollar Cost Averaging Option): \$5,000

Charge for each transfer, made to or from an Allocation Alternative, after the first twelve (12) transfers in a Policy Year: \$30

Transfers to the Fixed Account are only permitted if no transfers were made from the Fixed Account during the past six (6) months.

The sum of all transfers from the Fixed Account, including Interest Sweep Option transfers, in a Policy Year may not exceed 50% of the highest attained Fixed Account Accumulation Value on any Policy Anniversary (Policy Date if in the first Policy Year). The highest attained Fixed Account Accumulation Value will decrease by the amount of any withdrawals made from the Fixed Account, and increase by the amount of any additional Premium Payments made to the Fixed Account. When the Fixed Account Accumulation Value is zero, all previous Fixed Account anniversary values are disregarded, and the next Premium Payment to the Fixed Account will then be considered the highest attained Fixed Account Accumulation Value until a subsequent anniversary results in a higher balance.

**DATE OF ISSUE:** [February 5, 2009]

**POLICY DATA PAGE**

(Page 2 Cont'd.)

**POLICY SERVICE CHARGE:** The sum of \$40 may be deducted from the Accumulation Value on each Policy Anniversary and on the date the Policy is surrendered. However, this fee is waived if, on the Policy Anniversary or on the date of surrender, the Accumulation Value is \$100,000 or greater. The Policy Service Charge is deducted from each Allocation Alternative in proportion to its percentage of the Accumulation Value on the Policy Anniversary and on the date of surrender.

**SEPARATE ACCOUNT MORTALITY AND EXPENSE RISK AND ADMINISTRATIVE COSTS CHARGE:** [1.65%]

**RIDERS:**

**ENHANCED BENEFICIARY BENEFIT**

**ANNUAL DEATH BENEFIT RESET**

**UPROMISE**

**Please see attached rider(s) to this policy for details**

**DATE OF ISSUE:** [February 5, 2009]

## WE & YOU

In this Policy, the words “we,” “our,” “us,”  
“Corporation” and “NYLIAC” refer to New York Life

Insurance and Annuity Corporation, and the words  
“you” and “your” refer to the Owner of this Policy.

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**You may contact us at our service center address specified in the product prospectus or any alternate address we provide. When you write to us, please include your Policy number, your full name and your current address.**

## DEFINITIONS

**These terms are capitalized when used throughout this Policy.**

**ACCUMULATION UNIT:** An accounting unit we use to calculate the Variable Accumulation Value prior to the Annuity Commencement Date. Each Investment Division of the Separate Account has a distinct variable Accumulation Unit value.

**ACCUMULATION VALUE:** The sum of the Variable Accumulation Value and Fixed Account Accumulation Value of this Policy for any Valuation Period.

**ADJUSTED DEATH BENEFIT PREMIUM PAYMENTS:** The total dollar amount of Premium Payments made under this Policy reduced by any Adjusted Death Benefit Premium Payment Proportional Withdrawals.

**ADJUSTED DEATH BENEFIT PREMIUM PAYMENT PROPORTIONAL WITHDRAWAL:** An amount equal to the amount withdrawn from this Policy, divided by this Policy's Accumulation Value immediately preceding the withdrawal, multiplied by the Adjusted Death Benefit Premium Payments immediately preceding the withdrawal.

**AGE:** A person's age attained at his or her last birthday.

**ALLOCATION ALTERNATIVES:** The Investment Divisions of the Separate Account and the Fixed Account.

**ANNUITANT:** The person named on the Policy Data Page and whose life determines the Income Payments.

**ANNUITY COMMENCEMENT DATE:** The date on which the first Income Payment under this Policy is to be made.

**BENEFICIARY:** The person(s) or entity(ies) having the right to receive the death benefit set forth in this Policy and who is the "designated Beneficiary" for purposes of Section 72 of the Internal Revenue Code.

**BUSINESS DAY:** Any day on which the New York Stock Exchange (NYSE) is open for trading. Our Business Day ends at 4:00 p.m. Eastern Standard Time or the close of regular trading on the NYSE, if earlier.

**CONSIDERATION:** A Premium Payment, or a portion thereof and/or a transfer amount from an Investment Division to the Fixed Account.

**ELIGIBLE PORTFOLIOS ("Portfolios"):** The portfolios of the Fund that are available for investment through the Investment Divisions of the Separate Account, as shown on the Policy Data Page.

**FIXED ACCOUNT:** The account that is credited with a fixed interest rate. The assets in the Fixed Account are not part of the Separate Account of NYLIAC.

**FIXED ACCOUNT ACCUMULATION VALUE:** The sum of the Premium Payments and transfers allocated to the Fixed Account, plus interest credited on those Premium Payments and transfers, less any Partial Withdrawals and transfers from the Fixed Account, and less any Policy Service Charges and rider charges assessed from the Fixed Account. The Fixed Account Accumulation Value is supported by assets in NYLIAC's General Account. The Fixed Account Accumulation Value will never be less than the Nonforfeiture Value.

**FUND:** MainStay VP Series Fund, Inc., a diversified open-end management investment company registered under the Investment Company Act of 1940, and any other registered open-end management investment company that offers Eligible Portfolios.

**GENERAL ACCOUNT:** Includes all of NYLIAC's assets except those assets specifically allocated to the Separate Account. These assets are subject to the claims of our general creditors.

**GUARANTEED CASH SURRENDER VALUE:** The Guaranteed Cash Surrender Value is applicable only to the Fixed Account Accumulation Value. No such guarantee is applicable to the Variable Accumulation Value. The Guaranteed Cash Surrender Value is equal to the greater of:

- a) the Fixed Account Accumulation Value based on the guaranteed minimum interest rate, as shown on the Policy Data Page; or
- b) the Nonforfeiture Value.

**INCOME PAYMENTS:** Periodic payments NYLIAC makes to the named Payee beginning on the Annuity Commencement Date.

**INVESTMENT DIVISION (“DIVISION”):** The variable investment options available with this Policy. Each Investment Division, a division of the Separate Account, invests exclusively in shares of a specified Eligible Portfolio.

**ISSUE DATE:** The date this Policy is produced for delivery.

**NONFORFEITURE RATE:** The rate used to calculate the Nonforfeiture Value. This rate, as shown on the Policy Data Page, is equal to the lesser of:

- a) 3.00% and;
- b) a rate that is not less than 1.00% and determined by using the six-month average of the five-year Constant Maturity Treasury Rate reported by the Federal Reserve for December through May (for period beginning July 1) and June through November (for period beginning January 1), rounded to the nearest .05%, minus 1.25%.

**NONFORFEITURE VALUE:** The Nonforfeiture Value is equal to 87.50% of the Consideration(s) allocated to the Fixed Account accumulated at the Nonforfeiture Rate since the Payment Date or transfer date, minus any amounts withdrawn or transferred from the Fixed Account, with the remaining amount accumulated at the Nonforfeiture Rate since the date of withdrawal or transfer.

**NYLIAC (“Corporation, we, us, our”):** New York Life Insurance and Annuity Corporation, which is a wholly-owned Delaware subsidiary of New York Life Insurance Company. You may contact us at our service center address specified in the product prospectus to submit inquiries and Policy requests.

**OWNER (“you, your”):** The person(s) or entity(ies) designated as the Owner in this Policy, or as subsequently changed, and upon whose death prior to the Annuity Commencement Date benefits under this Policy may be paid. If NYLIAC issues a jointly owned Policy, ownership rights and privileges under this Policy must be exercised jointly and death benefits payable under this Policy, prior to the Annuity Commencement Date, will be paid upon the death of any joint Owner.

**PARTIAL WITHDRAWAL:** Any part of the Accumulation Value paid to you, at your request, in accordance with the terms of this Policy.

**PAYEE:** The recipient(s) of Income Payments under this Policy, generally the Owner.

**PAYMENT DATE:** The Business Day on which we receive a Premium Payment at the address specified in the product prospectus to receive such payment.

**POLICY ANNIVERSARY:** An anniversary of the Policy Date displayed on the Policy Data Page.

**POLICY DATA PAGE:** Page (2) of this Policy, containing the Policy specifications.

**POLICY DATE:** The date the Policy is executed and from which Policy Years, quarters, months, and Policy Anniversaries are measured. It is shown on the Policy Data Page.

**POLICY YEAR:** A year starting on the Policy Date. Subsequent Policy Years begin on each Policy Anniversary unless otherwise indicated.

**PREMIUM PAYMENT:** An amount paid to the Corporation as Consideration for the benefits provided by this Policy.

**PROOF OF DEATH:** Evidence that death has occurred including at least one of the following: a certified copy of the death certificate, an attending physician’s statement, a finding from a court of competent jurisdiction or any other proof that is acceptable to us.

**QUALIFIED PLAN:** A retirement plan under the Internal Revenue Code, including Sections 401(a), 403(b), 408, 408(A) and 457(b).

**RMD AUTOMATED OPTION:** The calculation and automatic processing of the Required Minimum Distribution (RMD) under certain Qualified Plans pursuant to IRC Section 401(a)(9) on a scheduled interval (monthly, quarterly, semi-annually, or annually). RMD is an amount that the IRS requires the owners of certain Qualified Plans to withdraw each year generally beginning no later than April 1 of the calendar year following the calendar year in which the owner attains age 70 ½.

**SEPARATE ACCOUNT:** NYLIAC Variable Annuity Separate Account III, a segregated asset account of the Corporation established to receive and invest Premium Payments made under this Policy. The Separate Account’s Investment Divisions, in turn, purchase shares of Eligible Portfolios.

**VALUATION PERIOD:** The period from the close of the immediately preceding Business Day to the close of the current Business Day.

**VARIABLE ACCUMULATION VALUE:** The sum of the current Accumulation Unit’s value for each of the Investment Divisions multiplied by the number of Accumulation Units held in the respective Investment Divisions.

## SECTION ONE - INCOME PAYMENTS

### 1.1 When Will Income Payments Begin?

We will apply the Accumulation Value of this Policy to the Life Income – Guaranteed Period Payment option and make Income Payments to you each month beginning on the Annuity Commencement Date shown on the Policy Data Page or as changed in accordance with Section 1.2. Income Payments will begin if this Policy is in force on that date. If the Accumulation Value of this Policy is an amount that would provide Income Payments of less than \$20 a month on the Annuity Commencement Date, we will pay you the Accumulation Value in a single sum.

### 1.2 May The Annuity Commencement Date Be Changed?

Yes. If we agree, the Annuity Commencement Date, shown on the Policy Data Page, may be changed to an earlier date or deferred to a later date. If you wish to change the date, you must notify us in writing at least one month before the Annuity Commencement Date. The Annuitant's Age on the Annuity Commencement Date may not be greater than the Age as required by the laws of the state in which this Policy was issued.

### 1.3 How Are Payments Made Under the Life Income – Guaranteed Period Payment Option?

We will make equal payments to the Payee each month during the lifetime of the Annuitant. Once Income Payments start, they do not change and are guaranteed for a period of ten (10) years (120 monthly payments) even if the Annuitant dies sooner. We may require proof of the Annuitant's birth date before Income Payments begin. Please note that we may also require that proof of the Annuitant's survival as a condition for Income Payments beyond the guaranteed period.

### 1.4 How Are Life Income – Guaranteed Period Payment Amounts Determined?

We will determine the amount of each monthly payment on the Annuity Commencement Date. We do this by applying the total Accumulation Value of the Policy, less any state premium tax that may be payable as provided in Section 4.6, to the Income Payment rate in effect on the Annuity Commencement Date. Income Payment rates are based on the adjusted Age and sex of the Annuitant. To find the adjusted Age in the year the first payment is due, we will adjust the Annuitant's Age at that time according to the following table:

|           |           |           |              |
|-----------|-----------|-----------|--------------|
| 2009-2018 | 2019-2028 | 2029-2038 | 2039 & later |
| 0         | -1        | -2        | -3           |

The amount of each monthly Income Payment will not be less than an amount based on the corresponding rate shown in the Life Income – Guaranteed Period Payment Table. These minimum amounts are based on the 1983 Individual Annuity Mortality Table a with Projection Scale G and with interest compounded annually at one and one half percent (1.5%).

When asked, we will state in writing what the minimum amount of each monthly Income Payment would be under this provision.

### LIFE INCOME – GUARANTEED PERIOD PAYMENT TABLE

(Minimum Monthly Payment Guaranteed for 10 years for \$1,000 of Proceeds)

| Adjusted Age | Male | Female |
|--------------|------|--------|
| 60           | 3.64 | 3.21   |
| 61           | 3.74 | 3.29   |
| 62           | 3.85 | 3.38   |
| 63           | 3.96 | 3.47   |
| 64           | 4.08 | 3.56   |
| 65           | 4.20 | 3.66   |
| 66           | 4.33 | 3.77   |
| 67           | 4.46 | 3.88   |
| 68           | 4.60 | 4.00   |
| 69           | 4.75 | 4.12   |
| 70           | 4.90 | 4.26   |
| 71           | 5.06 | 4.40   |
| 72           | 5.22 | 4.55   |
| 73           | 5.39 | 4.70   |
| 74           | 5.56 | 4.87   |
| 75           | 5.74 | 5.04   |
| 76           | 5.93 | 5.22   |
| 77           | 6.11 | 5.41   |
| 78           | 6.30 | 5.61   |
| 79           | 6.49 | 5.81   |
| 80           | 6.69 | 6.01   |
| 81           | 6.88 | 6.22   |
| 82           | 7.06 | 6.43   |
| 83           | 7.24 | 6.64   |
| 84           | 7.42 | 6.85   |
| 85+          | 7.59 | 7.05   |

### 1.5 Are There Any Other Methods Of Income Payment?

Yes. On or before the Annuity Commencement Date you may elect to have the Accumulation Value paid to you in a single sum, or if we agree, the proceeds may be placed under some other Income Payment option we may offer at that time.

## SECTION TWO - ANNUITANT, OWNER, BENEFICIARY

### 2.1 What Are The Rights Of Ownership Of This Policy?

As the Owner of this Policy, you have the right to name a new Owner or assign your interest in this Policy on non-Qualified Plan policies only, change the Beneficiary, receive Income Payments, and name a Payee to receive Income Payments. If this Policy is jointly owned, these rights must be exercised jointly. To exercise these rights, you do not need the consent of the Annuitant or any revocable Beneficiary. You cannot lose these rights. However, all rights of ownership end at your death.

### 2.2 May The Owner Be Different From The Annuitant?

Yes. The Owner of this Policy may be different from the Annuitant, but unless it is indicated on the Policy Data Page, or unless ownership is subsequently changed, you are both the Annuitant and Owner of this Policy. Generally, the Annuitant and Owner must be the same individual for policies issued in connection with Qualified Plans.

### 2.3 How Do You Change The Owner Of This Policy?

If this Policy is issued as a non-Qualified Plan, you may change the Owner of this Policy, from yourself to a new Owner, in a notice you sign which gives us the facts that we need. This change will take effect as of the date you signed the notice, subject to any payment we made or action we took before recording the change. When this change takes effect, all rights of ownership in this Policy will pass to the new Owner. Changing the Owner of this Policy does not change the Annuitant or any Beneficiary.

### 2.4 May More Than One Beneficiary Be Named?

Yes. You may name more than one Beneficiary. Multiple Beneficiaries may be classified as primary (or first class), contingent (or second class), and so on. If two or more Beneficiaries are named in a class, their shares in any amount payable may be stated. Any amount payable will be paid to any Beneficiary, classified as primary, who survives you. If no Beneficiary classified as primary survives you, payment will be made to any surviving in the next class, and so on. Those Beneficiaries who survive in the same class have an equal share, to the extent possible, in any amount payable, unless the shares are stated otherwise.

### 2.5 May You Change A Beneficiary?

Yes. During your lifetime, you may change a revocable Beneficiary in a signed notice that is satisfactory to us. When we record a change, it will take effect as of the date you signed the notice, subject to any payment we made or action we took before recording the change.

### 2.6 What Happens If The Annuitant Dies Before The Annuity Commencement Date?

If the Annuitant is not the Owner and the Annuitant dies before the Annuity Commencement Date, when we receive Proof of Death you will become the Annuitant of this Policy. If the Policy is jointly owned, the first Owner named will become the Annuitant. If the Owner is not a natural person, the Policy ends and we will pay to the Beneficiary(ies) the death benefit proceeds, which is an amount as provided in Section 2.8.

### 2.7 What Happens If The Annuitant Dies After The Annuity Commencement Date?

If the Annuitant dies after the Annuity Commencement Date, but before the end of the guaranteed period of the Income Payments, we will continue to make these payments to the Beneficiary for the remainder of the Income Payment period, even if the Payee is alive. No amount will be payable to a Beneficiary if the Annuitant dies after the end of an Income Payment guaranteed period under any payment option.

### 2.8 What Happens If You Die Before The Annuity Commencement Date?

If you die before the Annuity Commencement Date, when we receive Proof Of Death and all claim information, we will pay to the Beneficiary(ies) the death benefit, which is an amount equal to the greater of:

- a) the Accumulation Value of this Policy, or
- b) the Adjusted Death Benefit Premium Payments.

If this Policy is jointly owned, this provision will apply at the death of either Owner.

Payment will be made in a single sum or in accordance with the Beneficiary's election as provided for in Section 2.10 or 2.11. The payment will be calculated as of the date we receive Proof of Death and all claim information to make payment. This Policy will end on such date. However, if your surviving spouse is the sole primary Beneficiary,

your spouse may elect in writing, to become the new Owner of this Policy, as provided in Section 2.12, subject to certain Qualified Plan limitations.

If the Owner is not a natural person, a death benefit will be paid if the Annuitant dies before the Annuity Commencement Date (see Section 2.6). In this event, the spousal continuance option as explained in Section 2.12 does not apply.

### **2.9 What Happens If You Die After The Annuity Commencement Date?**

Unless otherwise provided, if you die after the Annuity Commencement Date and before the Annuitant, the Annuitant will become the new Owner of this Policy. If this Policy is jointly owned, the surviving Owner will become the sole Owner. The Annuitant, if still living, will become the new Owner after the death of the surviving Owner.

### **2.10 When Will We Process A Request for Payment of the Death Benefit?**

Claim information must be submitted for each Beneficiary. Upon receiving Proof of Death and all claim information from a Beneficiary, we will pay to that Beneficiary his/her full share of any amount of the death benefit. The payment will be made within seven (7) days. However, it may happen that the New York Stock Exchange is closed for other than usual weekends or holidays, or the Securities and Exchange Commission restricts trading or determines that an emergency exists. If so, it may not be practical for us to determine the investment experience of the Separate Account. In that case, we may defer payment of the death benefit request. Any amount invested in the Fixed Account as of the date of death will be credited with interest computed daily from the date of death to the date of payment. We set the interest rate each year. This rate will not be less than the rate required by law.

### **2.11 Does A Beneficiary Have To Accept The Death Benefit Of This Policy At Your Death?**

Full payment of the death benefit proceeds will be made to the Beneficiary within five (5) years after the date of your death. However, at your death, your Beneficiary is not required to accept the death benefit proceeds of this Policy if you or the Beneficiary (after your death), choose in a signed notice, to have all or part of this payment placed under the Life Income – Guaranteed Period Option or any other Income Payment option that we may

have available for the Beneficiary. Payment under the Life Income-Guaranteed Period Option or any other Income Payment option must be for the life of the Beneficiary or for a number of years that is not more than the life expectancy (as determined for federal tax purposes) of the Beneficiary, at the time of your death, and must begin within one year after your death.

### **2.12 What Happens If Your Spouse Is The Beneficiary?**

If your spouse is the sole primary Beneficiary and you die before the Annuity Commencement Date, this Policy may be continued with your spouse as the new Owner, subject to certain Qualified Plan limitations. If you are also the Annuitant, your spouse will become the new Annuitant. If your spouse chooses to continue this Policy, no death benefit proceeds will be paid as a consequence of your death.

### **2.13 What Happens If A Beneficiary Who Is Receiving Income Payments Dies?**

If a Beneficiary who is receiving Income Payments dies, each remaining Income Payment will be paid to those Beneficiaries in the same class who are alive when that Income Payment becomes due. If a last Beneficiary in a class to receive Income Payments dies, each remaining Income Payment will be paid to those in the next class who are alive when that Income Payment becomes due, and so on. If no Beneficiary for any amount payable or for a stated share is alive, the present value of any remaining Income Payments is paid to the estate of the Beneficiary who dies last. The present value of any remaining Income Payments is always less than the total of those Income Payments. No amount will be payable to any Beneficiary after the end of the guaranteed period of Income Payments.

### **2.14 What Happens If No Beneficiary Survives You?**

If no Beneficiary for any amount payable, or for a stated share, survives you, the right to this amount or this share will pass to your estate. Payment of the proceeds will be made in a single sum to your estate. If any Beneficiary dies at the same time as you, or within fifteen (15) days after your death, but before we receive your Proof of Death and all claim information, we will pay any amount payable as though the Beneficiary died first.

## SECTION THREE - PREMIUM PAYMENTS

### 3.1 How Are Premium Payments Credited?

If we have received all of the information we require to issue this Policy, the initial Premium Payment will be credited within two Business Days after receipt. Additional Premium Payments will be credited to this Policy as of the Payment Date.

### 3.2 Are There Any Limitations Regarding The Amounts And Frequency Of Premium Payments?

At any time before the maximum Age shown on the Policy Data Page, while the Owner is living and before the Annuity Commencement Date, Premium Payments may be made at any interval and by any method we make available. The initial Premium Payment is the amount shown on the Policy Data Page. The minimum additional Premium Payment you can make is shown on the Policy Data Page.

### 3.3 How Are Premium Payments Allocated?

The initial Premium Payment may be applied to one or more of the Allocation Alternatives shown on the Policy Data Page or to any other Investment Division(s) which may be made available by us for this Policy, in accordance with your instructions. All additional Premium Payments will be applied according to your instructions for the initial Premium Payment unless subsequently changed by you.

### 3.4 May The Allocation For Additional Premium Payments Be Changed?

Yes. You may notify us to change the allocation for additional Premium Payments among the Allocation Alternatives after the Issue Date shown on the Policy Data Page. Premium Payments received after the date on which we receive your notice will be applied on the basis of the new instructions. You must indicate the percentage of each Premium Payment that will be allocated to the Allocation Alternatives. The minimum amount of a Premium Payment that can be allocated to an Allocation Alternative is shown on the Policy Data Page. We reserve the right to limit the amount of a Premium Payment that may be allocated to any one Allocation Alternative and to refuse the allocation of all or a portion of a Premium Payment to the Fixed Account.

### 3.5 May The Corporation Terminate This Policy?

Yes. If no Premium Payments have been received for two or more consecutive years and the Accumulation Value would provide Income Payments of less than \$20 a month on the Annuity Commencement Date, we have the right, subject to any applicable state law or regulation, to terminate this Policy and pay you the Accumulation Value in a single sum. We will notify you of our intention to exercise this right and allow you 90 days to make a Premium Payment.

## SECTION FOUR - CHARGES AND DISTRIBUTIONS

### 4.1 What Charges Will Be Deducted From Your Policy?

An annual Policy Service Charge may be applicable as shown on the Policy Data Page. That charge, if any, will be deducted from this Policy's Accumulation Value on each Policy Anniversary and on the date of a full surrender.

The Separate Account mortality and expense risk and administrative costs charge will be deducted from your Policy as described in Section 7.10 and on the Policy Data Page.

### 4.2 Are Additional Fees and Charges Deducted From Your Policy?

Any optional rider(s) that you elect will result in additional charges that will be deducted on a quarterly basis from this Policy's Accumulation Value.

### 4.3 Can You Surrender This Policy?

Yes. On any Business Day, before the Annuity Commencement Date, and after this Policy has an Accumulation Value, you may request a full

surrender of the Accumulation Value, less any Policy Service Charges and/or additional fees and charges (including rider charges) that may apply. Policy Service Charges are explained in Section 4.1 and on the Policy Data Page and additional fees and charges are explained in Section 4.2 and, if applicable, on any attached riders.

### 4.4 Can You Make A Partial Withdrawal From This Policy?

Yes. After this Policy has an Accumulation Value, you may request a Partial Withdrawal by sending us your request at least thirty (30) days before the Annuity Commencement Date. The Partial Withdrawal may be for a selected amount or a percentage of the Accumulation Value. The minimum amount you may withdraw is shown on the Policy Data Page. You must indicate how it is to be withdrawn from the Allocation Alternatives. However, if you do not specify the Allocation Alternatives, NYLIAC will withdraw the money on a pro-rata basis from each Allocation Alternative. Partial Withdrawals will be made from the

Investment Divisions by deducting Accumulation Units. Accumulation Units are explained in Section 7.9.

Partial Withdrawals will be made from your Fixed Account in the following sequence: first from the portion of the Fixed Account Accumulation Value attributed to the initial Premium Payment, then from the portion of the Fixed Account Accumulation Value attributed to subsequent Premium Payments in the order received.

If your request for a Partial Withdrawal is greater than the amount in the Allocation Alternative(s), we will pay you the entire value of that Allocation Alternative(s).

A minimum Accumulation Value, as shown on the Policy Data Page, must remain in the Policy after a Partial Withdrawal. If a Partial Withdrawal would cause the total Accumulation Value of this Policy to fall below the minimum, we may not process the Partial Withdrawal request.

#### **4.5 When Will A Partial Withdrawal Or Full Surrender Be Processed?**

We will pay any Partial Withdrawal or full surrender proceeds within seven (7) days after we receive all necessary requirements. The Partial Withdrawal or full surrender value to be paid will be determined on the date we receive all requirements. However, it may happen that the New York Stock Exchange is closed for other than usual weekends or holidays, or the Securities and Exchange Commission restricts trading or determines that an emergency exists. If so, it may not be practical for us to determine the investment experience of the Separate Account. In that case, we may defer payment of a Partial

Withdrawal or full surrender request from the Investment Divisions.

When not prohibited by the laws of the state in which this Policy is issued, we may defer payment of any Partial Withdrawal or full surrender request from the Fixed Account for up to six (6) months from the Partial Withdrawal or full surrender request date after making a written request to and receiving written approval from the insurance commissioner of the state in which this Policy is issued. Interest will be paid on any amount deferred for thirty (30) days or more. If payments are deferred, we will pay interest at the rate specified by the Insurance Department of the state where your Policy was issued, from the date of the Partial Withdrawal or full surrender request. This rate will be at least three percent (3.0%) per year.

#### **4.6 Are State Premium Taxes Deducted From Your Policy?**

If we are required by state law to pay state premium taxes for your Policy, the amount of the state premium tax will be deducted from the Accumulation Value of your Policy on the earliest of:

- a) the date the Policy is surrendered;
- b) the Annuity Commencement Date, before the Accumulation Value is placed under an Income Payment option as described in Section 1.4; or
- c) the date we terminate this Policy in accordance with Section 3.5.

However, the amount of the state premium tax will not be deducted from the Accumulation Value, if the Accumulation Value is paid as a death benefit.

## **SECTION FIVE - TRANSFERS**

#### **5.1 Can Transfers Be Made Between Investment Divisions?**

Yes. Transfers of the Variable Accumulation Value may be made between Investment Divisions.

#### **5.2 Can Transfers Be Made Between The Investment Divisions And The Fixed Account?**

Yes. You may make transfers between the Investment Divisions and the Fixed Account subject to certain limitations as described on the Policy Data Page.

Transfers will be made from the Fixed Account in the following sequence: first from the Fixed Account Accumulation Value attributed to the initial Premium Payment, then from the Fixed Account Accumulation

Value attributed to subsequent Premium Payments and transfers in the order received.

#### **5.3 How Do You Make Transfers?**

Prior to 30 days before the Annuity Commencement Date, you may send us your transfer request. Each transfer must be for an amount not less than that shown on the Policy Data Page. A minimum balance must remain in an Investment Division and/or the Fixed Account after a transfer, as shown on the Policy Data Page. If after a transfer, the balance in that Investment Division or the Fixed Account falls below the minimum, we have the right to include that amount as part of the transfer. The remaining amount will be allocated in the same proportion as the transfer request.

In addition, transfers may be made on an automatic basis in accordance with your instructions, subject to certain limitations as described below.

#### *Traditional Dollar Cost Averaging Option*

Under this option, you may specify a dollar amount to be transferred from any Investment Division to any combination of Investment Divisions and/or to the Fixed Account. Transfers under this option are not available from the Fixed Account. We will automatically transfer the specific dollar amount in accordance with your instructions.

In order to elect this option the Accumulation Value must be equal to or greater than the minimum value shown on the Policy Data Page. The minimum amount that must be transferred to or from an Investment Division or to the Fixed Account is shown on the Policy Data Page. NYLIAC reserves the right to cancel this option if the Accumulation Value is less than the minimum amount required to elect this option.

Transfers under the Traditional Dollar Cost Averaging Option to the Fixed Account are subject to certain limitations described on the Policy Data Page.

#### *Automatic Asset Reallocation Option*

Under this option you may specify that a percentage of the Variable Accumulation Value be allocated to each Investment Division at a pre-set level. If you elect this reallocation option, we will automatically transfer your Variable Accumulation Value between Investment Divisions so that it reflects the percentages you specify or as subsequently changed by you in accordance with your instructions. In order to elect this option, the Variable Accumulation Value must be equal to or greater than the minimum value shown on the Policy Data Page. The minimum amount that must be allocated among the Investment Divisions under this option is shown on the Policy Data Page. NYLIAC reserves the right to cancel this option if the Variable Accumulation Value is less than the minimum amount required to elect this option.

Transfers under the Automatic Asset Reallocation option are not available with the Fixed Account.

You may not elect the Traditional Dollar Cost Averaging and Automatic Asset Reallocation options at the same time.

#### *Interest Sweep Option*

You may request transfers, from the Fixed Account to any combination of Investment Divisions, of interest earned on Premium Payments allocated to the Fixed Account. If you elect this option, we will automatically transfer the interest from the Fixed Account to the Investment Divisions you specify or as subsequently changed by you in accordance with your instructions.

In order to elect this option, the Fixed Account Accumulation Value must be equal to or greater than the minimum value as shown on the Policy Data Page. NYLIAC reserves the right to cancel this option if the Fixed Account Accumulation Value is less than the minimum amount required to elect this option.

The Interest Sweep option may be requested in addition to the Traditional Dollar Cost Averaging option or the Automatic Asset Reallocation option.

Transfers under the Interest Sweep Option are subject to certain limitations described on the Policy Data Page.

You may cancel the Traditional Dollar Cost Averaging option, the Automatic Asset Reallocation option, or the Interest Sweep option at any time by making a written request.

#### **5.4 Are There Limits On What You May Transfer?**

Transfers are subject to the limitations referenced in this section (Section Five) of the Policy and on the Policy Data Page.

We reserve the right to apply a charge for transfers as shown on the Policy Data Page. Any transfer made on an automatic basis with the Traditional Dollar Cost Averaging, Automatic Asset Reallocation and Interest Sweep options will not be counted for purposes of determining the maximum number of transfers as specified on the Policy Data Page.

We reserve the right to limit the amount, which may be transferred to any one Investment Division.

Your right to make transfers under this Policy is subject to modification if we determine, in our sole discretion, that the exercise of that right will disadvantage or potentially hurt the rights or interest of other policyowners. Such restrictions may be applied in any manner reasonably designed to prevent any use of the transfer right, which is considered to be to the actual or potential disadvantage of other policyowners.

## SECTION SIX - ACCUMULATION VALUE

### 6.1 How Is The Accumulation Value Calculated?

On any day, at or before the Annuity Commencement Date, the Accumulation Value of this Policy is equal to the sum of the Fixed Account Accumulation Value and the Variable Accumulation Value for any Valuation Period.

The Fixed Account Accumulation Value and death benefits that are available under this Policy are not less than the minimum benefits required by law.

When you ask us, we will tell you how much Accumulation Value there is in your Policy.

## SECTION SEVEN - SEPARATE ACCOUNT

### 7.1 How Is The Separate Account Established And Maintained?

We have established and maintained the Separate Account under the laws of the State of Delaware. Any realized or unrealized income, net gains, and losses from the assets of the Separate Account are credited or charged to it without regard to our other income.

### 7.2 How Are The Separate Account Assets Invested?

The Separate Account invests its assets in shares of the Eligible Portfolios of the Fund. Fund shares are purchased, redeemed, and valued on behalf of the Separate Account. The Separate Account is divided into Investment Divisions. We reserve the right to add or remove any Investment Division of the Separate Account.

### 7.3 To Whom Do The Assets In The Separate Account Belong?

The assets in the Separate Account are our property. The Separate Account assets equal the reserves and other Policy liabilities of the Separate Account. Those assets will not be chargeable with liabilities arising out of any other business we conduct. We reserve the right, when not prohibited by the laws of the state in which this Policy is issued, to transfer assets of an Investment Division, in excess of the reserves and other Policy liabilities with respect to that Investment Division, to another Investment Division or to our General Account.

### 7.4 How Will The Assets Of The Separate Account Be Valued?

We will determine the value of the assets in the Separate Account on each Business Day. The assets of the Separate Account will be valued at fair market value, as determined in accordance with a method of valuation that we establish in good faith. However, it may happen that the New York Stock Exchange is closed for other than usual weekends or holidays, or the Securities and Exchange

Commission restricts trading or determines that an emergency exists. If so, it may not be practical for us to determine the investment experience of the Separate Account. In that case, we may defer transfers among the Allocation Alternatives.

### 7.5 Can We Transfer Assets Of The Separate Account To Another Separate Account?

Yes. We reserve the right, when not prohibited by the laws of the state in which this Policy is issued, to transfer assets of the Separate Account, which we determine to be associated with the class of policies to which this Policy belongs, to another Separate Account. If this type of transfer is made, the term "Separate Account" as used in this Policy, will then mean the Separate Account to which the assets were transferred.

### 7.6 What Other Rights Do We Have?

We also reserve the right, when not prohibited by the laws of the state in which this Policy is issued, to:

- a) manage the Separate Account under the direction of a committee at any time;
- b) de-register the Separate Account under the Investment Company Act of 1940;
- c) combine the Separate Account with one or more other Separate Accounts; and
- d) restrict or eliminate any of the voting rights of Owners or other persons who have voting rights as to the Separate Account as permitted by law.

### 7.7 Can A Change In The Objective Of The Fund Be Made?

Yes. When required by law or regulation, an objective of the Fund can be changed. The objective of the Fund will not be changed unless approved by the appropriate insurance official of the State of Delaware or deemed approved in accordance with such law or regulation. If so required, the request to obtain such approval will be

filed with the insurance official of the state or the district in which this Policy is issued.

### **7.8 If The Assets In The Separate Account Belong To Us, What Do Your Premium Payments Purchase?**

Your Premium Payments that are allocated or transferred to the Investment Divisions will be applied to purchase Accumulation Units in those Investment Divisions.

### **7.9 How Is The Number Of Accumulation Units Determined?**

That portion of each Premium Payment allocated or transferred to a designated Investment Division of the Separate Account is credited to this Policy in the form of Accumulation Units. The number of Accumulation Units credited to this Policy is determined by dividing the amount allocated or transferred to each Investment Division by the Accumulation Unit value for that Investment Division for the Valuation Period during which the Premium Payment or transfer request and all required documentation is received.

That portion of each Partial Withdrawal, Policy Service Charge, additional fees and charges (including rider charges) or transfer that is made from a designated Investment Division of the Separate Account is deducted from this Policy in the form of Accumulation Units. The number of Accumulation Units deducted from this Policy is determined by dividing the amount withdrawn or transferred from each Investment Division by the Accumulation Units' value for that Investment Division for the Valuation Period.

The value of an Accumulation Unit will vary in accordance with the investment experience of the Eligible Portfolios in which the Investment Divisions invest. The number of Accumulation Units in a Policy will not, however, change as a result of any fluctuations in the value of an Accumulation Unit.

### **7.10 How Is The Value Of An Accumulation Unit Determined?**

The value of an Accumulation Unit on any Business Day is determined by multiplying the value of that unit on the immediately preceding Business Day by the net investment factor for the Valuation Period. The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of the Separate Account for the Valuation Period is determined by dividing (a) by (b) and subtracting (c) from the result, where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus
- 2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period.

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division determined as of the end of the immediately preceding Valuation Period.

c) is the daily mortality and expense risk and administrative costs charge, which is  $1/365^{\text{th}}$  of the annual mortality and expense risk and administrative costs charge shown on the Policy Data Page. In a leap year this calculation is based on 366 days.

The net investment factor may be greater or less than one. Therefore, the Accumulation Unit value may increase or decrease.

The net asset value of a Fund share held in the Separate Account reflects a fee paid to an investment advisor for investment advisory services provided.

## **SECTION EIGHT - FIXED ACCOUNT**

### **8.1 How Are The Fixed Account Assets Invested?**

Premium Payments and transfer amounts allocated to the Fixed Account and interest earned thereon are held in NYLIAC's General Account. NYLIAC invests the assets of the General Account in accordance with applicable law governing the investments of insurance company General Accounts. NYLIAC's General Account assets are all of its assets other than those allocated to the Separate Account. NYLIAC's General Account

assets support all of its liabilities except Separate Account liabilities.

### **8.2 How Is The Fixed Account Valued?**

Premium Payments and transfer amounts allocated to the Fixed Account are credited with interest at an interest rate we set from time to time. We will set an interest rate in advance at least once each year. We credit interest on a daily basis. The rate credited will never be less than the guaranteed minimum interest rate for the Fixed Account described on the Policy Data Page.

The applicable interest rate will be credited as of the Business Day we receive the Premium Payment or transfer request. A Premium Payment or transfer amount allocated to the Fixed Account will receive the rate in effect for the period during which the allocation is made, until the end of the Policy Year. Thereafter, the rate applicable to those amounts will change on each Policy Anniversary. The new rate will be the rate that we declare and is in effect on the date on which the Policy Anniversary occurs.

The amount in the Fixed Account is equal to the sum of Premium Payments and transfer amounts allocated to the Fixed Account, plus interest credited on those Premium Payments and transfer amounts, less any Partial Withdrawals and transfers from the

Fixed Account, and less any Policy Service Charges and/or additional fees and charges (including rider charges) assessed from the Fixed Account.

The minimum Premium Payment that may be allocated to the Fixed Account is shown on the Policy Data Page.

The Fixed Account Accumulation Value will never be less than the Nonforfeiture Value.

### **8.3 May The Corporation Limit or Refuse Premium Payments To The Fixed Account?**

Yes. We reserve the right to limit or refuse allocation of Premium Payments to the Fixed Account.

## **SECTION NINE - GENERAL PROVISIONS**

### **9.1 What Constitutes The Entire Contract?**

This entire contract consists of this Policy, any attached riders, endorsements, and a copy of the application, if attached. Only our Chairman, President, Secretary, or one of our Executive Officers may change the Policy, when not prohibited by the laws of the state in which this Policy is issued, and then only in writing. No change will be made in the contract unless you agree. No Registered Representative is authorized to change this contract or waive any provisions of this contract.

### **9.2 How Important Is The Information You Provided For This Policy?**

In issuing this Policy, we have relied on the information you provided. If you signed an application, such information includes statements made in the application. All such statements are deemed to be representations and not warranties. We assume these statements are true and complete to the best of the knowledge and belief of those who made them. No such statement will be used by us to contest this Policy unless that statement is a material misrepresentation.

### **9.3 Will We Be Able To Contest This Policy?**

We will not contest this Policy after the Policy has been in force, while you are living, for two (2) years from the Issue Date. If no application was signed, this Policy will not be contested on the basis of any information that would generally be contained in an application.

### **9.4 How Are The Dates Referred To In This Policy Measured?**

Policy Years, months, and anniversaries are measured from the Policy Date.

### **9.5 How Is A Person's Age Calculated For The Purpose Of This Policy?**

In this Policy when we refer to a person's Age on any date, we mean his or her Age attained at his or her last birthday.

### **9.6 What Happens If In This Policy A Person's Age Or Sex Is Stated Incorrectly?**

If a date on the Policy Data Page is based on an Age that is not correct, we may change the date to reflect the correct Age. If the Age or sex of the Annuitant shown on the Policy Data Page is not correct as stated, any amount payable under this Policy will be adjusted to what the premiums paid would have purchased at the correct Age and sex. If payments were made based on the incorrect Age or sex, we will increase or reduce a later payment or payments to adjust for the error. Any adjustment will include interest, at three percent (3.0%) per year, from the date of the incorrect payment to the date the adjustment is made.

### **9.7 May You Assign Or Transfer This Policy?**

During your lifetime, you may assign or transfer your interest in this Policy (non-Qualified Plan policies only). If you do this, your interest, and the interest of any Beneficiary, is subject to that of the assignee. As Owner, you retain any rights of ownership that have not been assigned or transferred.

### **9.8 How Do You Assign This Policy?**

You must provide us with a copy of any assignment of this Policy. We will not be responsible for the validity of any assignment. Unless otherwise specified by the Owner, any assignment we record will take effect as of the date you signed the notice,

subject to any payment we made or other action we took before receiving the notice.

**9.9 May The Assignee Change The Owner, Annuitant, Or Beneficiary?**

No. The assignee may not change the Owner, Annuitant, or Beneficiary. The assignee also may not elect an alternate Income Payment option. Any amount payable to the assignee will be made in a single sum.

**9.10 Are The Payments Made Under The Terms Of This Policy Protected Against Creditors?**

Except as stated in Section 9.7, payments we make under this Policy are, to the extent the law permits, exempt from the claims, attachments, or levies of any creditors.

**9.11 How Should Premium Payments For This Policy Be Made?**

Any Premium Payments made to us by check or money order must be payable to New York Life Insurance and Annuity Corporation or NYLIAC. When asked, we will give you a receipt, signed by our Registered Representative, for any premium paid to us.

**9.12 How Is The Guaranteed Accumulation Value Calculated For This Policy?**

The guaranteed Fixed Account Accumulation Value in this Policy is based on interest credited at an annual effective rate. This guaranteed rate is shown on the Policy Data Page. The Fixed Account Accumulation Value will never be less than the Nonforfeiture Value.

**9.13 Is This Policy Subject To Conformity With Any Law?**

Yes. This Policy is subject to all laws that apply. Any paid-up annuity, cash surrender or death benefits available under this Policy are not less than the minimum benefits required by any regulation or statute of the state in which this Policy is issued.

**9.14 Are There Any Dividends Payable Under This Policy?**

No. This is a non-participating Policy. Therefore, no dividends are payable.

**NEW YORK LIFE INSURANCE  
AND ANNUITY CORPORATION**

Home Office – [200 Continental Drive, Suite 306  
Newark, Delaware]

Executive Office – [51 Madison Avenue  
New York, NY 10010]

A Stock Company Incorporated in Delaware.

**Flexible Premium Deferred Variable Annuity**

Periodic Income Payments Begin On The Annuity  
Commencement Date. Premiums May Be Paid  
While You Are Living, As Defined In This Policy.

**The Accumulation Value May Increase Or  
Decrease Based On The Investment Experience  
Of The Separate Account.**

**Accumulation Values Based On The  
Performance Of The Separate Account Are  
Variable And Are Not Guaranteed As To Dollar  
Amount.**

This Policy Is Non-Participating.

ANNUITANT- - JOHN DOE  
POLICY NUMBER- -00 000 000  
POLICY DATE- -JANUARY 1, 2009

## NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

(A Delaware Corporation)

Home Office  
[200 Continental Drive, Suite 306]  
[Newark, Delaware 19713]

Executive Office  
[51 Madison Avenue]  
[New York, NY 10010]

**THE CORPORATION** New York Life Insurance and Annuity Corporation (NYLIAC), a stock company incorporated in Delaware, will pay the benefits of this Flexible Premium Deferred Variable Annuity (the "Policy") in accordance with its provisions. The following pages are also a part of this Policy.

**PAYMENT OF PREMIUMS** At any time before the Annuity Commencement Date and while you are living, premiums may be paid at any interval or by any method we make available. Premium Payments are subject to the limitations defined in this Policy. The initial Premium Payment is shown on the Policy Data Page.

**INCOME PAYMENTS** On the Annuity Commencement Date, the Accumulation Value will be applied to provide periodic Income Payments, as stated in the Income Payments Section.

**DEATH BENEFIT** If you die before the Annuity Commencement Date, we will pay death benefit proceeds to the Beneficiary upon our receipt of Proof of Death and all claim information.

**RIGHT TO RETURN POLICY** Please examine this Policy. Within 10 days (or longer if required by state law) after delivery, you may return it to the Corporation or to the registered representative through whom it was purchased, along with a written request for a cancellation. Upon receipt of this request, we will promptly cancel this Policy and refund this Policy's Accumulation Value. The amount refunded to you may be more or less than the Premium Payment(s). In states where required, we will promptly refund the Premium Payment(s) less any Partial Withdrawals.

**REPORT TO OWNER** At least once each Policy Year, and within sixty (60) days of the end of the reporting period, NYLIAC will provide a report that will tell you how much Accumulation Value there is as of the end of the reporting period. It will also give you any other facts for this Policy required by state law or regulations. The Corporation will mail the report to your last known address.

The Issue Date is shown on the Policy Data Page.

**TOLL FREE #** [800-598-2019]



President



Secretary

[New York Life Smart Value Variable Annuity]

*(A Flexible Premium Deferred Variable Annuity)*

Periodic Income Payments Begin On The Annuity Commencement Date.  
Premiums May Be Paid While You Are Living, As Defined In This Policy.

**THE ACCUMULATION VALUE MAY INCREASE OR DECREASE BASED ON THE INVESTMENT EXPERIENCE OF THE SEPARATE ACCOUNT.**

**ACCUMULATION VALUES BASED ON THE PERFORMANCE OF THE SEPARATE ACCOUNT ARE VARIABLE AND ARE NOT GUARANTEED AS TO DOLLAR AMOUNT.**

This Policy Is Non-Participating.

**READ THIS POLICY CAREFULLY.** It is a legal contract between the Owner and the Corporation.

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

HOME OFFICE –  
[200 CONTINENTAL DRIVE, SUITE 306]  
[NEWARK, DELAWARE 19713]

EXECUTIVE OFFICE – [51 MADISON AVENUE]  
[NEW YORK, NY 10010]

**POLICY DATA PAGE**

|                      |    |                   |           |        |
|----------------------|----|-------------------|-----------|--------|
| <b>ANNUITANT</b>     | -- | [JOHN DOE]        | AGE: [55] | [MALE] |
| <b>POLICY NUMBER</b> | -- | [00 000 000]      |           |        |
| <b>POLICY DATE</b>   | -- | [JANUARY 1, 2009] |           |        |
| <b>OWNER</b>         | -- | [THE ANNUITANT]   | AGE: [55] | [MALE] |
| <b>PLAN</b>          | -- | [NON-QUALIFIED]   |           |        |

**ALLOCATION ALTERNATIVES AVAILABLE:**  
(See Next Page)

**DOLLAR COST AVERAGING (DCA) ADVANTAGE ACCOUNT AVAILABLE:**  
6-Month DCA Advantage Account

**PREMIUM PAYMENT:**  
Initial Premium Payment: [\$5,000]  
Initial Premium Payment Date: [January 1, 2009]

**INTEREST RATE:**  
Guaranteed Minimum Interest Rate - DCA Advantage Account: [1.0%] (Annual Effective Rate)  
Guaranteed Minimum Interest Rate - Fixed Account: [1.0%] (Annual Effective Rate)

Nonforfeiture Rate: [1.70%]

**ANNUITY COMMENCEMENT DATE:** [January 1, 2044]

**SURRENDER CHARGE SCHEDULE:**

| PAYMENT YEAR | PERCENTAGE | PAYMENT YEAR | PERCENTAGE |
|--------------|------------|--------------|------------|
| 1            | 8%         | 5            | 4%         |
| 2            | 7%         | 6            | 3%         |
| 3            | 6%         | 7            | 2%         |
| 4            | 5%         | 8+           | 0%         |

The Surrender Charge will apply only if the amount of the withdrawal exceeds the greatest of: (A) [10%] of the Accumulation Value as of the last Policy Anniversary ([10%] of the Premium Payment if the withdrawal is made in the first Policy Year), less any prior Partial Withdrawals, made during the current Policy Year, that were free of Surrender Charges, or (B) [10%] of the current Accumulation Value, at the time of the withdrawal, less any prior Partial Withdrawals, made during the current Policy Year, that were free of Surrender Charges or (C) that portion of the current Accumulation Value, at the time of the withdrawal, that exceeds the total Premium Payments made to this Policy.

**DATE OF ISSUE:** [February 5, 2009]

**POLICY DATA PAGE**

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**ALLOCATION ALTERNATIVES**

***INVESTMENT DIVISIONS***

MainStay VP Balanced  
MainStay VP Bond  
MainStay VP Capital Appreciation  
MainStay VP Cash Management  
MainStay VP Common Stock  
MainStay VP Conservative Allocation Port  
MainStay VP Convertible  
MainStay VP Developing Growth  
MainStay VP Floating Rate  
MainStay VP Government  
MainStay VP Growth Allocation Portfolio  
MainStay VP High Yield Corporate Bond  
MainStay VP ICAP Select Equity Portfolio  
MainStay VP International Equity  
MainStay VP Large Cap Growth  
MainStay VP Mid-Cap Core  
MainStay VP Mid-Cap Growth  
MainStay VP Mid-Cap Value  
MainStay VP Moderate Allocation Port  
MainStay VP Moderate Growth Allocation  
MainStay VP S&P 500 Index  
MainStay VP Small-Cap Growth  
MainStay VP Total Return

CVS Calvert Social Balanced  
Columbia Small Cap Value Fund Variable Series  
Dreyfus IP Technology Growth  
Fidelity VIP Contrafund  
Fidelity VIP Equity-Income  
Fidelity VIP Mid Cap  
Janus Aspen Series Balanced  
Janus Aspen Series Worldwide Growth  
MFS Investors Trust Series  
MFS Research Series  
MFS Utilities Series  
Neuberger Berman AMT Mid Cap Growth  
Royce Micro-Cap Portfolio – Inv Cls  
Royce Small-Cap Portfolio – Inv Cls  
T. Rowe Price Equity Income Portfolio  
Van Eck Worldwide Hard Assets  
Van Kampen UIF Emerging Markets Equity  
Victory VIF Diversified Stock

***FIXED ACCOUNT***

**DATE OF ISSUE:** [February 5, 2009]

**POLICY DATA PAGE**  
(Page 2 Cont'd.)

**MINIMUMS:**

|  |                |
|--|----------------|
| Additional Premium Payment:  | \$5,000        |
| Partial Withdrawal amount:   | \$500          |
| Accumulation Value after a Partial Withdrawal:   | \$2,000        |
| Premium Payment amount allocated to an Allocation Alternative:                         | \$25           |
| Transfer amount to an Investment Division:   | \$25           |
| Transfer amount from an Investment Division:   | \$500          |
| Balance that must be maintained in an Investment Division after a transfer:            | \$500          |
| [Transfer amount to the Fixed Account:   | \$500]         |
| Transfer amount from the Fixed Account:  | No Minimum     |
| Balance that must be maintained in the Fixed Account after a transfer:                 | \$25           |
| Traditional Dollar Cost Averaging Option transfer amount:                              | \$100          |
| Accumulation Value required to elect the Traditional Dollar Cost Averaging Option:     | \$2,500        |
| Automatic Asset Reallocation Option transfer amount:                                   | No Minimum     |
| Variable Accumulation Value required to elect the Automatic Asset Reallocation Option: | \$2,500        |
| Interest Sweep Option transfer amount:   | No Minimum     |
| Fixed Account Accumulation Value required to elect the Interest Sweep Option:          | \$2,500        |
| Premium Payment amount allocated to the DCA Advantage Account:                         | \$5,000        |
| <b>MAXIMUMS:</b>   |                |
| [Premium Payment allowed without prior approval from NYLIAC:                           | [\$1,000,000]] |
| [Cumulative Premium Payments:  | \$1,000,000]   |
| Age for which additional Premium Payments may be made:                                 | [80]           |

**Transfers:**

Charge for each transfer made to or from an Investment Division and/or [to or] from the Fixed Account after the first twelve (12) transfers in a Policy Year: \$30

During the Surrender Charge period for the initial Premium Payment, the sum of all transfers from the Fixed Account, including Interest Sweep Option transfers, in a Policy Year may not exceed 25% of the highest attained Fixed Account Accumulation Value on any Policy Anniversary (Policy Date if in the first Policy Year). After this Surrender Charge period ends, transfers may not exceed 50% of the highest attained Fixed Account Accumulation Value on any Policy Anniversary, regardless of any new Surrender Charge periods applicable to additional Premium Payments. The highest attained Fixed Account Accumulation Value will decrease by the amount of any withdrawals made from the Fixed Account, and increase by the amount of any additional Premium Payments made to the Fixed Account. When the Fixed Account Accumulation Value is zero, all previous Fixed Account anniversary values are disregarded, and the next Premium Payment to the Fixed Account will then be considered the highest attained Fixed Account Accumulation Value until a subsequent anniversary results in a higher balance.

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**POLICY DATA PAGE**

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[No transfers are permitted from the Investment Divisions to the Fixed Account.]

[Transfers to the Fixed Account are only permitted if no transfers were made from the Fixed Account during the past six (6) months.]

**POLICY SERVICE CHARGE:** The sum of \$30 may be deducted from the Accumulation Value on each Policy Anniversary and on the date the Policy is surrendered. However, this fee is waived if, on the Policy Anniversary or on the date of surrender, the Accumulation Value is \$100,000 or greater. The Policy Service Charge is deducted from each Allocation Alternative and the DCA Advantage Account in proportion to its percentage of the Accumulation Value on the Policy Anniversary and on the date of surrender.

**[SEPARATE ACCOUNT MORTALITY AND EXPENSE RISK AND ADMINISTRATIVE COSTS CHARGE:**  
A charge, equal on an annual basis to [1.55%] of the Adjusted Premium Payment and the portion of the Premium Payment(s) transferred from the Fixed Account to the Investment Divisions, will be deducted from the Variable Accumulation Value each policy quarter and on the date the policy is surrendered. The Adjusted Premium Payment is defined as the total Premium Payment(s) allocated to the Investment Divisions of NYLIAC Variable Annuity Separate Account IV and the DCA Advantage Account reduced by withdrawals and applicable surrender charges in excess of any gain in the Policy. This charge will be deducted, in the form of a reduction of Accumulation Units, from each Investment Division on a pro-rata basis. This charge will not affect the value of an Accumulation Unit.

**NET INVESTMENT FACTOR:**

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of the Separate Account for the Valuation Period is determined by dividing a) by b) where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus
- 2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period; and

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division determined as of the end of the immediately preceding Valuation Period.]

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**POLICY DATA PAGE**

(Page 2 Cont'd.)

**[SEPARATE ACCOUNT MORTALITY AND EXPENSE RISK AND ADMINISTRATIVE COSTS CHARGE:**

A charge, equal on an annual basis to [1.35%] of the daily average Variable Accumulation Value.

**NET INVESTMENT FACTOR:**

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of NYLIAC Variable Annuity Separate Account III for the Valuation Period is determined by dividing (a) by (b) and subtracting (c) from the result, where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus
- 2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period; and

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division determined as of the end of the immediately preceding Valuation Period; and

c) is the daily Mortality and Expense Risk and Administrative Costs Charge, which is  $1/365^{\text{th}}$ \* of the annual Mortality and Expense Risk and Administrative Costs Charge shown on the Policy Data Page.

\* In a leap year this calculation is based on 366 days.]

**RIDERS:**

**UPROMISE**

**LIVING NEEDS BENEFIT**

**UNEMPLOYMENT BENEFIT**

**ENHANCED BENEFICIARY BENEFIT**

**INVESTMENT PROTECTION PLAN**

**ANNUAL DEATH BENEFIT RESET**

**BREAKPOINT CREDIT**

Please see attached rider(s) to this policy for details

**DATE OF ISSUE:** [February 5, 2009]

## WE & YOU

In this Policy, the words “we,” “our,” “us,”  
“Corporation” and “NYLIAC” refer to New York Life

Insurance and Annuity Corporation, and the words  
“you” and “your” refer to the Owner of this Policy.

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**You may contact us at our service center address specified in the product prospectus or any alternate address we provide. When you write to us, please include your Policy number, your full name and your current address.**

## DEFINITIONS

**These terms are capitalized when used throughout this Policy.**

**ACCUMULATION UNIT:** An accounting unit we use to calculate the Variable Accumulation Value prior to the Annuity Commencement Date. Each Investment Division of the Separate Account has a distinct variable Accumulation Unit value.

**ACCUMULATION VALUE:** The sum of the Variable Accumulation Value, Fixed Account Accumulation Value and Dollar Cost Averaging (DCA) Advantage Account Accumulation Value, of this Policy for any Valuation Period.

### **ADJUSTED DEATH BENEFIT PREMIUM**

**PAYMENTS:** The total dollar amount of Premium Payments made under this Policy reduced by any Adjusted Death Benefit Premium Payment Proportional Withdrawals.

### **ADJUSTED DEATH BENEFIT PREMIUM**

**PAYMENT PROPORTIONAL WITHDRAWAL:** An amount equal to the amount withdrawn from this Policy (including any amount withdrawn that may include Surrender Charges), divided by this Policy's Accumulation Value immediately preceding the withdrawal, multiplied by the Adjusted Death Benefit Premium Payments immediately preceding the withdrawal.

**AGE:** A person's age attained at his or her last birthday.

**ALLOCATION ALTERNATIVES:** The Investment Divisions of the Separate Account and the Fixed Account.

**ANNUITANT:** The person named on the Policy Data Page and whose life determines the Income Payments.

**ANNUITY COMMENCEMENT DATE:** The date on which the first Income Payment under this Policy is to be made.

**BENEFICIARY:** The person(s) or entity(ies) having the right to receive the death benefit set forth in this Policy and who is the "designated Beneficiary" for purposes of Section 72 of the Internal Revenue Code.

**BUSINESS DAY:** Any day on which the New York Stock Exchange (NYSE) is open for trading. Our Business Day ends at 4:00 p.m. Eastern Standard

Time or the close of regular trading on the NYSE, if earlier.

**CONSIDERATION:** A Premium Payment, or a portion thereof and/or, if allowable, a transfer amount from an Investment Division to the Fixed Account.

### **DOLLAR COST AVERAGING ("DCA")**

**ADVANTAGE ACCOUNT:** The account from which you are permitted to transfer amounts to the Investment Divisions proportionally on a monthly basis.

The DCA Advantage Account duration is shown on the Policy Data Page. The DCA Advantage Account is credited with a fixed interest rate. The assets in the DCA Advantage Account are not part of the Separate Account of NYLIAC.

### **DCA ADVANTAGE ACCOUNT ACCUMULATION**

**VALUE:** The sum of the Premium Payments allocated to the DCA Advantage Account, plus interest credited on those Premium Payments, less transfers and any Partial Withdrawals from the DCA Advantage Account, and less any Surrender Charges, Policy Service Charges and rider charges assessed from the DCA Advantage Account. The DCA Advantage Account Accumulation Value is supported by assets in NYLIAC's General Account. The DCA Advantage Account Accumulation Value will never be less than the DCA Advantage Account portion of the Nonforfeiture Value.

**ELIGIBLE PORTFOLIOS ("Portfolios"):** The portfolios of the Fund that are available for investment through the Investment Divisions of the Separate Account, as shown on the Policy Data Page.

**FIXED ACCOUNT:** The account that is credited with a fixed interest rate. The assets in the Fixed Account are not part of the Separate Account of NYLIAC.

**FIXED ACCOUNT ACCUMULATION VALUE:** The sum of the Premium Payments and, if allowable, transfers, allocated to the Fixed Account, plus interest credited on those Premium Payments and, if allowable, transfers, less any Partial Withdrawals and transfers from the Fixed Account, and less any Surrender Charges, Policy Service Charges and

rider charges assessed from the Fixed Account. The Fixed Account Accumulation Value is supported by assets in NYLIAC's General Account. The Fixed Account Accumulation Value will never be less than the Fixed Account portion of the Nonforfeiture Value.

**FUND:** MainStay VP Series Fund, Inc., a diversified open-end management investment company registered under the Investment Company Act of 1940, and any other registered open-end management investment company that offers Eligible Portfolios.

**GENERAL ACCOUNT:** Includes all of NYLIAC's assets except those assets specifically allocated to the Separate Account. These assets are subject to the claims of our general creditors.

**GUARANTEED CASH SURRENDER VALUE:** The Guaranteed Cash Surrender Value is applicable only to the Fixed Account Accumulation Value and/or to the DCA Advantage Account Accumulation Value. No such guarantee is applicable to the Variable Accumulation Value. The Guaranteed Cash Surrender value is equal to the greater of:

- a) the sum of the Fixed Account Accumulation Value and the DCA Advantage Account Accumulation Value based on the guaranteed minimum interest rate for each account, as shown on the Policy Data Page, less any Surrender Charges that may apply; or
- b) the Nonforfeiture Value.

**INCOME PAYMENTS:** Periodic payments NYLIAC makes to the named Payee beginning on the Annuity Commencement Date.

**INVESTMENT DIVISION ("DIVISION"):** The variable investment options available with this Policy. Each Investment Division, a division of the Separate Account, invests exclusively in shares of a specified Eligible Portfolio.

**ISSUE DATE:** The date this Policy is produced for delivery.

**NYLIAC ("Corporation, we, us, our"):** New York Life Insurance and Annuity Corporation, which is a wholly-owned Delaware subsidiary of New York Life Insurance Company. You may contact us at our service center address specified in the product prospectus to submit inquiries and Policy requests.

**NONFORFEITURE RATE:** The rate used to calculate the Fixed Account and DCA Advantage Account Nonforfeiture Values. This rate, as shown on the Policy Data Page, is equal to the lesser of:  
a) 3.00% and;

- b) a rate that is not less than 1.00% and determined by using the six-month average of the five-year Constant Maturity Treasury Rate reported by the Federal Reserve for December through May (for period beginning July 1) and June through November (for period beginning January 1), rounded to the nearest .05%, minus 1.25%.

**NONFORFEITURE VALUE:** The Nonforfeiture Value is equal to 87.50% of the Consideration(s) allocated to the Fixed Account and/or to the DCA Advantage Account accumulated at the Nonforfeiture Rate since the Payment Date or transfer date, minus any amounts withdrawn or transferred from the Fixed Account and/or the DCA Advantage Account, with the remaining amount accumulated at the Nonforfeiture Rate since the date of withdrawal or transfer.

**OWNER ("you, your"):** The person(s) or entity(ies) designated as the Owner in this Policy, or as subsequently changed, and upon whose death prior to the Annuity Commencement Date benefits under this Policy may be paid. If NYLIAC issues a jointly owned Policy, ownership rights and privileges under this Policy must be exercised jointly and death benefits payable under this Policy, prior to the Annuity Commencement Date, will be paid upon the death of any joint Owner.

**PARTIAL WITHDRAWAL:** Any part of the Accumulation Value paid to you, at your request, in accordance with the terms of this Policy.

**PAYEE:** The recipient(s) of Income Payments under this Policy, generally the Owner.

**PAYMENT DATE:** The Business Day on which we receive a Premium Payment at the address specified in the product prospectus to receive such payment.

**PAYMENT YEAR:** A year as measured from the Payment Date of the initial Premium Payment or from the Payment Date of any additional Premium Payments made to this Policy.

**POLICY ANNIVERSARY:** An anniversary of the Policy Date displayed on the Policy Data Page.

**POLICY DATA PAGE:** Page (2) of this Policy, containing the Policy specifications.

**POLICY DATE:** The date the Policy is executed and from which Policy Years, quarters, months, and Policy Anniversaries are measured. It is shown on the Policy Data Page.

**POLICY YEAR:** A year starting on the Policy Date. Subsequent Policy Years begin on each Policy Anniversary unless otherwise indicated.

**PREMIUM PAYMENT:** An amount paid to the Corporation as Consideration for the benefits provided by this Policy.

**PROOF OF DEATH:** Evidence that death has occurred including at least one of the following: a certified copy of the death certificate, an attending physician's statement, a finding from a court of competent jurisdiction or any other proof that is acceptable to us.

**QUALIFIED PLAN:** A retirement plan under the Internal Revenue Code, including Sections 401(a), 403(b), 408, 408(A) and 457(b).

**RMD AUTOMATED OPTION:** The calculation and automatic processing of the Required Minimum Distribution (RMD) under certain Qualified Plans pursuant to IRC Section 401(a)(9) on a scheduled interval (monthly, quarterly, semi-annually, or annually). RMD is an amount that the IRS requires the owners of certain Qualified Plans to withdraw each year generally beginning no later than April 1 of the calendar year following the calendar year in which the owner attains age 70 ½.

**SEPARATE ACCOUNT:** A segregated asset account of the Corporation, as identified on the Policy Data Page, established to receive and invest Premium Payments made under this Policy. The Separate Account's Investment Divisions, in turn, purchase shares of Eligible Portfolios.

**SURRENDER CHARGE:** An amount charged by the Corporation during the Surrender Charge period as shown under the Surrender Charge schedule on the Policy Data Page, and assessed when a Partial Withdrawal of the Accumulation Value is made or when this Policy is surrendered for its Accumulation Value.

**VALUATION PERIOD:** The period from the close of the immediately preceding Business Day to the close of the current Business Day.

**VARIABLE ACCUMULATION VALUE:** The sum of the current Accumulation Unit's value for each of the Investment Divisions multiplied by the number of Accumulation Units held in the respective Investment Divisions.

## SECTION ONE - INCOME PAYMENTS

### 1.1 When Will Income Payments Begin?

We will apply the Accumulation Value of this Policy to the Life Income – Guaranteed Period Payment option and make Income Payments to you each month beginning on the Annuity Commencement Date shown on the Policy Data Page or as changed in accordance with Section 1.2. Income Payments will begin if this Policy is in force on that date. If the Accumulation Value of this Policy is an amount that would provide Income Payments of less than \$20 a month on the Annuity Commencement Date, we will pay you the Accumulation Value in a single sum.

### 1.2 May The Annuity Commencement Date Be Changed?

Yes. If we agree, the Annuity Commencement Date, shown on the Policy Data Page, may be changed to an earlier date or deferred to a later date. If you wish to change the date, you must notify us in writing at least one month before the Annuity Commencement Date. The Annuitant's Age on the Annuity Commencement Date may not be greater than the Age as required by the laws of the state in which this Policy was issued.

### 1.3 How Are Payments Made Under the Life Income – Guaranteed Period Payment Option?

We will make equal payments to the Payee each month during the lifetime of the Annuitant. Once Income Payments start, they do not change and are guaranteed for a period of ten (10) years (120 monthly payments) even if the Annuitant dies sooner. We may require proof of the Annuitant's birth date before Income Payments begin. Please note that we may also require proof of the Annuitant's survival as a condition for Income Payments beyond the guaranteed period.

### 1.4 How Are Life Income – Guaranteed Period Payment Amounts Determined?

We will determine the amount of each monthly payment on the Annuity Commencement Date. We do this by applying the total Accumulation Value of the Policy, less any state premium tax that may be payable as provided in Section 4.8, to the Income Payment rate in effect on the Annuity Commencement Date. Income Payment rates are based on the adjusted Age and sex of the Annuitant. To find the adjusted Age in the year the first payment is due, we will adjust the Annuitant's Age at that time according to the following table:

|           |           |           |              |
|-----------|-----------|-----------|--------------|
| 2009-2018 | 2019-2028 | 2029-2038 | 2039 & later |
| 0         | -1        | -2        | -3           |

The amount of each monthly Income Payment will not be less than an amount based on the corresponding rate shown in the Life Income – Guaranteed Period Payment Table. These minimum amounts are based on the 1983 Individual Annuity Mortality Table a with Projection Scale G and with interest compounded annually at one and one half percent (1.5%).

When asked, we will state in writing what the minimum amount of each monthly Income Payment would be under this provision.

### LIFE INCOME – GUARANTEED PERIOD PAYMENT TABLE

(Minimum Monthly Payment Guaranteed for 10 years for \$1,000 of Proceeds)

| Adjusted Age | Male | Female |
|--------------|------|--------|
| 60           | 3.64 | 3.21   |
| 61           | 3.74 | 3.29   |
| 62           | 3.85 | 3.38   |
| 63           | 3.96 | 3.47   |
| 64           | 4.08 | 3.56   |
| 65           | 4.20 | 3.66   |
| 66           | 4.33 | 3.77   |
| 67           | 4.46 | 3.88   |
| 68           | 4.60 | 4.00   |
| 69           | 4.75 | 4.12   |
| 70           | 4.90 | 4.26   |
| 71           | 5.06 | 4.40   |
| 72           | 5.22 | 4.55   |
| 73           | 5.39 | 4.70   |
| 74           | 5.56 | 4.87   |
| 75           | 5.74 | 5.04   |
| 76           | 5.93 | 5.22   |
| 77           | 6.11 | 5.41   |
| 78           | 6.30 | 5.61   |
| 79           | 6.49 | 5.81   |
| 80           | 6.69 | 6.01   |
| 81           | 6.88 | 6.22   |
| 82           | 7.06 | 6.43   |
| 83           | 7.24 | 6.64   |
| 84           | 7.42 | 6.85   |
| 85+          | 7.59 | 7.05   |

### 1.5 Are There Any Other Methods Of Income Payment?

Yes. On or before the Annuity Commencement Date you may elect to have the Accumulation Value paid to you in a single sum, or if we agree, the proceeds may be placed under some other Income Payment option we may offer at that time.

## SECTION TWO- ANNUITANT, OWNER, BENEFICIARY

### 2.1 What Are The Rights Of Ownership Of This Policy?

As the Owner of this Policy, you have the right to name a new Owner or assign your interest in this Policy on non-Qualified Plan policies only, change the Beneficiary, receive Income Payments, and name a Payee to receive Income Payments. If this Policy is jointly owned, these rights must be exercised jointly. To exercise these rights, you do not need the consent of the Annuitant or any revocable Beneficiary. You cannot lose these rights. However, all rights of ownership end at your death.

### 2.2 May The Owner Be Different From The Annuitant?

Yes. The Owner of this Policy may be different from the Annuitant, but unless it is indicated on the Policy Data Page, or unless ownership is subsequently changed, you are both the Annuitant and Owner of this Policy. Generally, the Annuitant and Owner must be the same individual for policies issued in connection with Qualified Plans.

### 2.3 How Do You Change The Owner Of This Policy?

If this Policy is issued as a non-Qualified Plan, you may change the Owner of this Policy, from yourself to a new Owner, in a notice you sign which gives us the facts that we need. This change will take effect as of the date you signed the notice, subject to any payment we made or action we took before recording the change. When this change takes effect, all rights of ownership in this Policy will pass to the new Owner. Changing the Owner of this Policy does not change the Annuitant or any Beneficiary.

### 2.4 May More Than One Beneficiary Be Named?

Yes. You may name more than one Beneficiary. Multiple Beneficiaries may be classified as primary (or first class), contingent (or second class), and so on. If two or more Beneficiaries are named in a class, their shares in any amount payable may be stated. Any amount payable will be paid to any Beneficiary, classified as primary, who survives you. If no Beneficiary classified as primary survives you, payment will be made to any surviving in the next class, and so on. Those Beneficiaries who survive in the same class have an equal share, to the extent possible, in any amount payable, unless the shares are stated otherwise.

### 2.5 May You Change A Beneficiary?

Yes. During your lifetime, you may change a revocable Beneficiary in a signed notice that is satisfactory to us. When we record a change, it will take effect as of the date you signed the notice, subject to any payment we made or action we took before recording the change.

### 2.6 What Happens If The Annuitant Dies Before The Annuity Commencement Date?

If the Annuitant is not the Owner and the Annuitant dies before the Annuity Commencement Date, when we receive Proof of Death you will become the Annuitant of this Policy. If the Policy is jointly owned, the first Owner named will become the Annuitant. If the Owner is not a natural person, the Policy ends and we will pay to the Beneficiary(ies) the death benefit proceeds, which is an amount as provided in Section 2.8.

### 2.7 What Happens If The Annuitant Dies After The Annuity Commencement Date?

If the Annuitant dies after the Annuity Commencement Date, but before the end of the guaranteed period of the Income Payments, we will continue to make these payments to the Beneficiary for the remainder of the Income Payment period, even if the Payee is alive. No amount will be payable to a Beneficiary if the Annuitant dies after the end of an Income Payment guaranteed period under any payment option.

### 2.8 What Happens If You Die Before The Annuity Commencement Date?

If you die before the Annuity Commencement Date, when we receive Proof Of Death and all claim information, we will pay to the Beneficiary(ies) the death benefit, which is an amount equal to the greater of:

- a) the Accumulation Value of this Policy, or
- b) the Adjusted Death Benefit Premium Payments.

If this Policy is jointly owned, this provision will apply at the death of either Owner.

Payment will be made in a single sum or in accordance with the Beneficiary's election as provided for in Section 2.10 or 2.11. The payment will be calculated as of the date we receive Proof of Death and all claim information to make payment. This Policy will end on such date. However, if your surviving spouse is the sole primary Beneficiary,

your spouse may elect in writing, to become the new Owner of this Policy, as provided in Section 2.12, subject to certain Qualified Plan limitations.

If the Owner is not a natural person, a death benefit will be paid if the Annuitant dies before the Annuity Commencement Date (see Section 2.6). In this event, the spousal continuance option as explained in Section 2.12 does not apply.

### **2.9 What Happens If You Die After The Annuity Commencement Date?**

Unless otherwise provided, if you die after the Annuity Commencement Date and before the Annuitant, the Annuitant will become the new Owner of this Policy. If this Policy is jointly owned, the surviving Owner will become the sole Owner. The Annuitant, if still living, will become the new Owner after the death of the surviving Owner.

### **2.10 When Will We Process A Request for Payment of the Death Benefit?**

Claim information must be submitted for each Beneficiary. Upon receiving Proof of Death and all claim information from a Beneficiary, we will pay to that Beneficiary his/her full share of any amount of the death benefit. The payment will be made within seven (7) days. However, it may happen that the New York Stock Exchange is closed for other than usual weekends or holidays, or the Securities and Exchange Commission restricts trading or determines that an emergency exists. If so, it may not be practical for us to determine the investment experience of the Separate Account. In that case, we may defer payment of the death benefit request. Any amount invested in the Fixed Account as of the date of death will be credited with interest computed daily from the date of death to the date of payment. We set the interest rate each year. This rate will not be less than the rate required by law.

### **2.11 Does A Beneficiary Have To Accept The Death Benefit Of This Policy At Your Death?**

Full payment of the death benefit proceeds will be made to the Beneficiary within five (5) years after the date of your death. However, at your death, your Beneficiary is not required to accept the death benefit proceeds of this Policy if you or the Beneficiary (after your death), choose in a signed notice, to have all or part of this payment placed under the Life Income – Guaranteed Period Option or any other Income Payment option that we may

have available for the Beneficiary. Payment under the Life Income-Guaranteed Period Option or any other Income Payment option must be for the life of the Beneficiary or for a number of years that is not more than the life expectancy (as determined for federal tax purposes) of the Beneficiary, at the time of your death, and must begin within one year after your death.

### **2.12 What Happens If Your Spouse Is The Beneficiary?**

If your spouse is the sole primary Beneficiary and you die before the Annuity Commencement Date, this Policy may be continued with your spouse as the new Owner, subject to certain Qualified Plan limitations. If you are also the Annuitant, your spouse will become the new Annuitant. If your spouse chooses to continue this Policy, no death benefit proceeds will be paid as a consequence of your death.

### **2.13 What Happens If A Beneficiary Who Is Receiving Income Payments Dies?**

If a Beneficiary who is receiving Income Payments dies, each remaining Income Payment will be paid to those Beneficiaries in the same class who are alive when that Income Payment becomes due. If a last Beneficiary in a class to receive Income Payments dies, each remaining Income Payment will be paid to those in the next class who are alive when that Income Payment becomes due, and so on. If no Beneficiary for any amount payable or for a stated share is alive, the present value of any remaining Income Payments is paid to the estate of the Beneficiary who dies last. The present value of any remaining Income Payments is always less than the total of those Income Payments. No amount will be payable to any Beneficiary after the end of the guaranteed period of Income Payments.

### **2.14 What Happens If No Beneficiary Survives You?**

If no Beneficiary for any amount payable, or for a stated share, survives you, the right to this amount or this share will pass to your estate. Payment of the proceeds will be made in a single sum to your estate. If any Beneficiary dies at the same time as you, or within fifteen (15) days after your death, but before we receive your Proof of Death and all claim information, we will pay any amount payable as though the Beneficiary died first.

## SECTION THREE- PREMIUM PAYMENTS

### 3.1 How Are Premium Payments Credited?

If we have received all of the information we require to issue this Policy, the initial Premium Payment will be credited within two Business Days after receipt. Additional Premium Payments will be credited to this Policy as of the Payment Date.

### 3.2 Are There Any Limitations Regarding The Amounts And Frequency Of Premium Payments?

At any time before the maximum Age shown on the Policy Data Page, while the Owner is living and before the Annuity Commencement Date, Premium Payments may be made at any interval and by any method we make available. The initial Premium Payment is the amount shown on the Policy Data Page. The minimum additional Premium Payment you can make is shown on the Policy Data Page. We reserve the right to reject or limit the dollar amount of any Premium Payment, when the aggregate amount of all Premium Payments is equal to or greater than the maximum amount stated on the Policy Data Page.

### 3.3 How Are Premium Payments Allocated?

The initial Premium Payment may be applied to one or more of the Allocation Alternatives and to the DCA Advantage Account shown on the Policy Data Page or to any other Investment Division(s) which may be made available by us for this Policy, in accordance with your instructions. All additional Premium Payments will be applied according to your instructions for the initial Premium Payment unless subsequently changed by you.

### 3.4 May The Allocation For Additional Premium Payments Be Changed?

Yes. You may notify us to change the allocation for additional Premium Payments among the Allocation Alternatives and the DCA Advantage Account after the Issue Date shown on the Policy Data Page. Premium Payments received after the date on which we receive your notice will be applied on the basis of the new instructions. You must indicate the percentage of each Premium Payment that will be allocated to the Allocation Alternatives and the DCA Advantage Account. The minimum amount of a Premium Payment that can be allocated to an Allocation Alternative or to the DCA Advantage Account is shown on the Policy Data Page. We reserve the right to limit the amount of a Premium Payment that may be allocated to any one Allocation Alternative or DCA Advantage Account, and to refuse the allocation of all or a portion of a Premium Payment to the Fixed Account.

### 3.5 May The Corporation Terminate This Policy?

Yes. If no Premium Payments have been received for two or more consecutive years and the Accumulation Value would provide Income Payments of less than \$20 a month on the Annuity Commencement Date, we have the right, subject to any applicable state law or regulation, to terminate this Policy and pay you the Accumulation Value in a single sum. We will notify you of our intention to exercise this right and allow you 90 days to make a Premium Payment.

## SECTION FOUR- CHARGES AND DISTRIBUTIONS

### 4.1 What Charges Will Be Deducted From Your Policy?

An annual Policy Service Charge may be applicable as shown on the Policy Data Page. That charge, if any, will be deducted from this Policy's Accumulation Value on each Policy Anniversary and on the date of a full surrender.

The Separate Account mortality and expense risk and administrative costs charge will be deducted from your Policy as described on the Policy Data Page.

During the Surrender Charge period, a Surrender Charge may be deducted from the Policy's Accumulation Value. Surrender Charges are explained in Section 4.6.

### 4.2 Are Additional Fees and Charges Deducted From Your Policy?

Any optional rider(s) that you elect will result in additional charges that will be deducted on a quarterly basis from this Policy's Accumulation Value.

### 4.3 Can You Surrender This Policy?

Yes. On any Business Day, before the Annuity Commencement Date, and after this Policy has an Accumulation Value, you may request a full surrender of the Accumulation Value, less any Surrender Charges, Policy Service Charges and/or additional fees and charges (including rider charges) that may apply. Surrender Charges are explained in Section 4.6 and on the Policy Data Page, Policy Service Charges are explained in Section 4.1 and on the Policy Data Page and additional fees and

charges are explained in Section 4.2 and, if applicable, on any attached riders.

#### **4.4 Can You Make A Partial Withdrawal From This Policy?**

Yes. After this Policy has an Accumulation Value, you may request a Partial Withdrawal by sending us your request at least thirty (30) days before the Annuity Commencement Date. The Partial Withdrawal may be for a selected amount or a percentage of the Accumulation Value. The minimum amount you may withdraw is shown on the Policy Data Page. You must indicate how it is to be withdrawn from the Allocation Alternatives and/or from the DCA Advantage Account. However, if you do not specify the Allocation Alternatives and/or the DCA Advantage Plan Account, NYLIAC will withdraw the money on a pro-rata basis from each Allocation Alternative and/or from the DCA Advantage Account. Partial Withdrawals will be made from the Investment Divisions by deducting Accumulation Units. Accumulation Units are explained in Section 7.9.

Partial Withdrawals will be made from your Fixed Account in the following sequence: first from the portion of the Fixed Account Accumulation Value attributed to the initial Premium Payment, then from the portion of the Fixed Account Accumulation Value attributed to subsequent Premium Payments in the order received.

Partial Withdrawals will be made from the DCA Advantage Account in the following sequence: first from the portion of the DCA Advantage Account Accumulation Value attributed to the initial Premium Payment, then from the portion of the DCA Advantage Account Accumulation Value attributed to subsequent Premium Payments in the order received.

A Surrender Charge will be assessed as shown on the Policy Data Page, except as provided in Section 4.7. If your request for a Partial Withdrawal is greater than the amount in the Allocation Alternative(s) and/or in the DCA Advantage Account, we will pay you the entire value of that Allocation Alternative(s) and/or that DCA Advantage Account, less any Surrender Charges that may apply.

A minimum Accumulation Value, as shown on the Policy Data Page, must remain in the Policy after a Partial Withdrawal. If a Partial Withdrawal would cause the total Accumulation Value of this Policy to fall below the minimum, we may not process the Partial Withdrawal request.

#### **4.5 When Will A Partial Withdrawal Or Full Surrender Be Processed?**

We will pay any Partial Withdrawal or full surrender proceeds within seven (7) days after we receive all necessary requirements. The Partial Withdrawal or full surrender value to be paid will be determined on the date we receive all requirements. However, it may happen that the New York Stock Exchange is closed for other than usual weekends or holidays, or the Securities and Exchange Commission restricts trading or determines that an emergency exists. If so, it may not be practical for us to determine the investment experience of the Separate Account. In that case, we may defer payment of a Partial Withdrawal or full surrender request from the Investment Divisions.

When not prohibited by the laws of the state in which this Policy is issued, we may defer payment of any Partial Withdrawal or full surrender request from the Fixed Account and/or the DCA Advantage Account for up to six (6) months from the Partial Withdrawal or full surrender request date after making a written request to and receiving written approval from the insurance commissioner of the state in which this Policy is issued. Interest will be paid on any amount deferred for thirty (30) days or more. If payments are deferred, we will pay interest at the rate specified by the Insurance Department of the state where your Policy was issued, from the date of the Partial Withdrawal or full surrender request. This rate will be at least three percent (3.0%) per year.

#### **4.6 Are Surrender Charges Deducted From Your Policy?**

During the Surrender Charge period, as shown under the Surrender Charge schedule on the Policy Data Page, a Surrender Charge may be applied each time a Partial Withdrawal is made, or when the Policy is surrendered. The Surrender Charge, if any, will be a percentage, as shown on the Policy Data Page, of the Accumulation Value withdrawn or surrendered. The applicable percentage corresponds with the Payment Year in which you make a Partial Withdrawal or full surrender request. The Surrender Charge will apply only if the amount of the withdrawal exceeds the amount described under the Surrender Charge Schedule section of the Policy Data Page.

The Surrender Charge for the initial Premium Payment will be calculated from the Policy Date. For each subsequent Premium Payment, the Surrender Charge will be calculated from the Payment Date of each Premium Payment. Therefore, for purposes of calculating the Surrender Charge for additional Premium Payments, the second Payment Year

begins on the first anniversary of that additional Premium Payment, the third Payment Year begins on the second anniversary of that additional Premium Payment, and so on. Upon a Partial Withdrawal, the Premium Payment producing the lowest Surrender Charge will be surrendered first. If more than one Premium Payment produces the same Surrender Charge, the oldest of those Premium Payments will be surrendered first.

#### **4.7 Are Surrender Charges Ever Waived?**

Yes. Surrender Charges will be waived:

a) when proceeds are paid on the death of the Owner, or of the Annuitant if the Owner is not a natural person; or

b) for any Required Minimum Distribution (RMD), as calculated by us, from the Accumulation Value of this Policy withdrawn under the RMD Automated option. However, if in addition to any RMD withdrawals, Partial Withdrawals are made from this Policy during a Policy Year, all such withdrawals will be combined and a Surrender Charge will apply to that portion of the withdrawals that exceeds the greater of the calculated RMD amount, and the amount as explained in Section 4.6; or

c) on amounts placed under the Life Income Guaranteed Period Payment option, as described in Section 1.4, after the first Policy Year; or

d) under conditions specified in any riders or endorsements attached to and made a part of this Policy; or

e) if we terminate this Policy as explained in Section 3.5.

#### **4.8 Are State Premium Taxes Deducted From Your Policy?**

If we are required by state law to pay state premium taxes for your Policy, the amount of the state premium tax will be deducted from the Accumulation Value of your Policy on the earliest of:

- a) the date the Policy is surrendered; or
- b) the Annuity Commencement Date, before the Accumulation Value is placed under an Income Payment option as described in Section 1.4; or
- c) the date we terminate this Policy in accordance with Section 3.5.

However, the amount of the state premium tax will not be deducted from the Accumulation Value, if the Accumulation Value is paid as a death benefit.

## **SECTION FIVE – TRANSFERS**

#### **5.1 Can Transfers Be Made Between Investment Divisions?**

Yes. Transfers of the Variable Accumulation Value may be made between Investment Divisions.

#### **5.2 Can Transfers Be Made Between The Investment Divisions And The Fixed Account?**

Yes. You may make transfers between the Investment Divisions and the Fixed Account subject to certain limitations as described on the Policy Data Page.

Transfers will be made from the Fixed Account in the following sequence: first from the Fixed Account Accumulation Value attributed to the initial Premium Payment, then from the Fixed Account Accumulation Value attributed to subsequent Premium Payments and transfers in the order received.

#### **5.3 How Do You Make Transfers?**

Prior to 30 days before the Annuity Commencement Date, you may send us your transfer request. Each transfer must be for an amount not less than that shown on the Policy Data Page. A minimum balance must remain in an Investment Division

and/or the Fixed Account after a transfer is made from an Investment Division and/or the Fixed Account, as shown on the Policy Data Page. If after a transfer, the balance in that Investment Division or Fixed Account falls below the minimum, we have the right to include that amount as part of the transfer. The remaining amount will be allocated in the same proportion as the transfer request.

In addition, transfers may be made on an automatic basis in accordance with your instructions, subject to certain limitations as described below.

#### *Traditional Dollar Cost Averaging Option*

Under this option, you may specify a dollar amount to be transferred from any Investment Division to any combination of Investment Divisions and/or, if allowable, to the Fixed Account. Transfers under this option are not available from the Fixed Account. We will automatically transfer the specific dollar amount in accordance with your instructions.

In order to elect this option, the Accumulation Value must be equal to or greater than the minimum value shown on the Policy Data Page. The minimum

amount that may be transferred to or from an Investment Division or, if allowable, to the Fixed Account is shown on the Policy Data Page. NYLIAC reserves the right to cancel this option if the the Accumulation Value is less than the minimum amount required to elect this option.

#### *Automatic Asset Reallocation Option*

Under this option you may specify that a percentage of the Variable Accumulation Value be allocated to each Investment Division at a pre-set level. If you elect this reallocation option, we will automatically transfer your Variable Accumulation Value between Investment Divisions so that it reflects the percentages you specify or as subsequently changed by you in accordance with your instructions. In order to elect this option, the Variable Accumulation Value must be equal to or greater than the minimum value shown on the Policy Data Page. The minimum amount that must be allocated among the Investment Divisions under this option is shown on the Policy Data Page. NYLIAC reserves the right to cancel this option if the Variable Accumulation Value is less than the minimum amount required to elect this option.

Transfers under the Automatic Asset Reallocation option are not available with the Fixed Account.

You may not elect the Traditional Dollar Cost Averaging and Automatic Asset Reallocation options at the same time.

#### *Interest Sweep Option*

You may request transfers, from the Fixed Account to any combination of Investment Divisions, of interest earned on Premium Payments allocated to the Fixed Account. If you elect this option, we will automatically transfer the interest from the Fixed Account to the Investment Divisions you specify or as subsequently changed by you in accordance with your instructions.

In order to elect this option, the Fixed Account Accumulation Value must be equal to or greater than the minimum value as shown on the Policy Data Page. NYLIAC reserves the right to cancel this option if the Fixed Account Accumulation Value is less than the minimum amount required to elect this option.

The Interest Sweep option may be requested in addition to the Traditional Dollar Cost Averaging option, the Automatic Asset Reallocation option, or the DCA Advantage Account.

Transfers under the Interest Sweep Option are subject to certain limitations described on the Policy Data Page.

You may cancel the Traditional Dollar Cost Averaging option, the Automatic Asset Reallocation option, or the Interest Sweep option at any time by making a written request.

#### **5.4 Can Transfers Be Made Into The DCA Advantage Account?**

No. Transfers may not be made into the DCA Advantage Account.

#### **5.5 Can Transfers Be Made From The DCA Advantage Account Into The Fixed Account?**

No. The DCA Advantage Account Accumulation Value may not be transferred to the Fixed Account.

#### **5.6 How Do You Transfer The DCA Advantage Account Accumulation Value To The Investment Divisions?**

At the time you elect the DCA Advantage Account, or as subsequently changed by you before the expiration date, you must tell us into which Investment Division(s) you want the DCA Advantage Account Accumulation Value transferred. We will automatically transfer amounts from your DCA Advantage Account into the Investment Division(s) in proportional periodic amounts in accordance with your instructions.

In addition, you may make transfers from the DCA Advantage Account to the Investment Divisions at any time. The transfers will not interrupt the automatic transfers from the DCA Advantage Account. Transfers will be made from the DCA Advantage Account in the following sequence: first from the DCA Advantage Account Accumulation Value attributed to the initial Premium Payment, then from the DCA Advantage Account Accumulation Value attributed to subsequent Premium Payments in the order received.

The amount held in the DCA Advantage Account will be completely transferred out of the DCA Advantage Account by the specified expiration date of that Account. In no event may the expiration date of the DCA Advantage Account extend beyond your Annuity Commencement Date.

The DCA Advantage Account may be requested in addition to the Interest Sweep option, the Traditional Dollar Cost Averaging option or the Automatic Asset Reallocation option.

### **5.7 Are There Limits On What You May Transfer?**

Transfers are subject to the limitations referenced in this section (Section Five) of the Policy and on the Policy Data Page.

We reserve the right to apply a charge for transfers as shown on the Policy Data Page. Any transfer made on an automatic basis with the Traditional Dollar Cost Averaging, Automatic Asset Reallocation and Interest Sweep options will not be counted for purposes of determining the maximum number of transfers as specified on the Policy Data Page.

We reserve the right to limit the amount, which may be transferred to any one Investment Division.

Your right to make transfers under this Policy is subject to modification if we determine, in our sole discretion, that the exercise of that right will disadvantage or potentially hurt the rights or interest of other policyowners. Such restrictions may be applied in any manner reasonably designed to prevent any use of the transfer right, which is considered to be to the actual or potential disadvantage of other policyowners.

## **SECTION SIX – ACCUMULATION VALUE**

### **6.1 How Is The Accumulation Value Calculated?**

On any day, at or before the Annuity Commencement Date, the Accumulation Value of this Policy is equal to the sum of the Fixed Account Accumulation Value, the Variable Accumulation Value and the DCA Advantage Account Accumulation Value for any Valuation Period.

The Fixed Account Accumulation Value, the DCA Advantage Account Accumulation Value and death

benefits that are available under this Policy are not less than the minimum benefits required by law.

The instances in which Surrender Charges will be assessed, and the amount of those charges are described in Section Four herein. When you ask us, we will tell you how much Accumulation Value there is in your Policy.

## **SECTION SEVEN - SEPARATE ACCOUNT**

### **7.1 How Is The Separate Account Established And Maintained?**

We have established and maintained the Separate Account under the laws of the State of Delaware. Any realized or unrealized income, net gains, and losses from the assets of the Separate Account are credited or charged to it without regard to our other income.

### **7.2 How Are The Separate Account Assets Invested?**

The Separate Account invests its assets in shares of the Eligible Portfolios of the Fund. Fund shares are purchased, redeemed, and valued on behalf of the Separate Account. The Separate Account is divided into Investment Divisions. We reserve the right to add or remove any Investment Division of the Separate Account.

### **7.3 To Whom Do The Assets In The Separate Account Belong?**

The assets in the Separate Account are our property. The Separate Account assets equal the reserves and other Policy liabilities of the Separate Account. Those assets will not be chargeable with liabilities arising out of any other business we conduct. We reserve the right, when not prohibited

by the laws of the state in which this Policy is issued, to transfer assets of an Investment Division, in excess of the reserves and other Policy liabilities with respect to that Investment Division, to another Investment Division or to our General Account.

### **7.4 How Will The Assets Of The Separate Account Be Valued?**

We will determine the value of the assets in the Separate Account on each Business Day. The assets of the Separate Account will be valued at fair market value, as determined in accordance with a method of valuation that we establish in good faith. However, it may happen that the New York Stock Exchange is closed for other than usual weekends or holidays, or the Securities and Exchange Commission restricts trading or determines that an emergency exists. If so, it may not be practical for us to determine the investment experience of the Separate Account. In that case, we may defer transfers among the Allocation Alternatives and the DCA Advantage Account.

### **7.5 Can We Transfer Assets Of The Separate Account To Another Separate Account?**

Yes. We reserve the right, when not prohibited by the laws of the state in which this Policy is issued, to

transfer assets of the Separate Account, which we determine to be associated with the class of policies to which this Policy belongs, to another Separate Account. If this type of transfer is made, the term "Separate Account" as used in this Policy, will then mean the Separate Account to which the assets were transferred.

#### **7.6 What Other Rights Do We Have?**

We also reserve the right, when not prohibited by the laws of the state in which this Policy is issued, to:

- a) manage the Separate Account under the direction of a committee at any time;
- b) de-register the Separate Account under the Investment Company Act of 1940;
- c) combine the Separate Account with one or more other Separate Accounts; and
- d) restrict or eliminate any of the voting rights of Owners or other persons who have voting rights as to the Separate Account as permitted by law.

#### **7.7 Can A Change In The Objective Of The Fund Be Made?**

Yes. When required by law or regulation, an objective of the Fund can be changed. The objective of the Fund will not be changed unless approved by the appropriate insurance official of the State of Delaware or deemed approved in accordance with such law or regulation. If so required, the request to obtain such approval will be filed with the insurance official of the state or the district in which this Policy is issued.

#### **7.8 If The Assets In The Separate Account Belong To Us, What Do Your Premium Payments Purchase?**

Your Premium Payments that are allocated or transferred to the Investment Divisions will be applied to purchase Accumulation Units in those Investment Divisions.

#### **7.9 How Is The Number Of Accumulation Units Determined?**

That portion of each Premium Payment allocated or transferred to a designated Investment Division of the Separate Account is credited to this Policy in the form of Accumulation Units. The number of

Accumulation Units credited to this Policy is determined by dividing the amount allocated or transferred to each Investment Division by the Accumulation Unit value for that Investment Division for the Valuation Period during which the Premium Payment or transfer request and all required documentation is received.

That portion of each Partial Withdrawal, Surrender Charge, Policy Service Charge, additional fees and charges (including rider charges) or transfer that is made from a designated Investment Division of the Separate Account is deducted from this Policy in the form of Accumulation Units. The number of Accumulation Units deducted from this Policy is determined by dividing the amount withdrawn or transferred from each Investment Division by the Accumulation Units' value for that Investment Division for the Valuation Period.

The value of an Accumulation Unit will vary in accordance with the investment experience of the Eligible Portfolios in which the Investment Divisions invest. The number of Accumulation Units in a Policy will not, however, change as a result of any fluctuations in the value of an Accumulation Unit.

#### **7.10 How Is The Value Of An Accumulation Unit Determined?**

The value of an Accumulation Unit on any Business Day is determined by multiplying the value of that unit on the immediately preceding Business Day by the net investment factor for the Valuation Period. The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of the Separate Account for the Valuation Period is determined as described on the Policy Data Page.

The net investment factor may be greater or less than one. Therefore, the Accumulation Unit value may increase or decrease.

The net asset value of a Fund share held in the Separate Account reflects a fee paid to an investment advisor for investment advisory services provided.

## **SECTION EIGHT – FIXED ACCOUNT**

#### **8.1 How Are The Fixed Account Assets Invested?**

Premium Payments and, if allowable, transfer amounts allocated to the Fixed Account and interest

earned thereon are held in NYLIAC's General Account. NYLIAC invests the assets of the General Account in accordance with applicable law governing the investments of insurance company General Accounts. NYLIAC's General Account

assets are all of its assets other than those allocated to the Separate Account. NYLIAC's General Account assets support all of its liabilities except Separate Account liabilities.

### **8.2 How Is The Fixed Account Valued?**

Premium Payments and, if allowable, transfer amounts allocated to the Fixed Account are credited with interest at an interest rate we set from time to time. We will set an interest rate in advance at least once each year. We credit interest on a daily basis. The rate credited will never be less than the guaranteed minimum interest rate for the Fixed Account described on the Policy Data Page.

The applicable interest rate will be credited as of the Business Day we receive the Premium Payment or transfer request. A Premium Payment or transfer amount allocated to the Fixed Account will receive the rate in effect for the period during which the allocation is made, until the first anniversary of the Premium Payment or transfer. Thereafter, the rate applied to those amounts will change on the anniversary of each Premium Payment or transfer request to the Fixed Account. The new rate will be the rate we declare, and is in effect on the

anniversary of the Premium Payment or transfer request to the Fixed Account.

The amount in the Fixed Account is equal to the sum of Premium Payments and, if allowable, transfer amounts allocated to the Fixed Account, plus interest credited on those Premium Payments and transfer amounts, less any Partial Withdrawals and transfers from the Fixed Account, and less any Surrender Charges, Policy Service Charges and/or additional fees and charges (including rider charges) assessed from the Fixed Account.

The minimum Premium Payment that may be allocated to the Fixed Account is shown on the Policy Data Page.

The Fixed Account Accumulation Value will never be less than the Fixed Account portion of the Nonforfeiture Value.

### **8.3 May The Corporation Limit or Refuse Premium Payments To The Fixed Account?**

Yes. We reserve the right to limit or refuse allocation of Premium Payments to the Fixed Account.

## **SECTION NINE - DCA ADVANTAGE ACCOUNT**

### **9.1 How Are The DCA Advantage Account Assets Invested?**

Premium Payments allocated to the DCA Advantage Account and interest earned thereon are held in NYLIAC's General Account. NYLIAC invests the assets of the General Account in accordance with applicable law governing the investments of insurance company General Accounts. NYLIAC's General Account assets are all of its assets other than those allocated to the Separate Account. NYLIAC's General Account assets support all of its liabilities except Separate Account liabilities.

### **9.2 How Is The DCA Advantage Account Valued?**

Under the DCA Advantage Account, we will set interest rates in advance for each date on which Premium Payments may be received for allocation to the DCA Advantage Account. We credit interest on a daily basis. The rate credited will never be less than the guaranteed minimum interest rate for the DCA Advantage Account described on the Policy Data Page.

The amount in the DCA Advantage Account is equal to the Premium Payments allocated to the DCA Advantage Account, plus interest credited on those Premium Payments, less transfers and any Partial Withdrawals from the DCA Advantage Account, and less any Surrender Charges, Policy Service Charges and/or additional fees and charges (including rider charges) assessed from the DCA Advantage Account.

The portion of the Premium Payments allocated to the DCA Advantage Account will receive the applicable interest rate as of the Payment Date. Interest rates for subsequent Premium Payments allocated to the DCA Advantage Account may be different from the rate applied to the initial Premium Payment.

The minimum Premium Payment that may be allocated to the DCA Advantage Account is shown on the Policy Data Page. The DCA Advantage Account Accumulation Value will never be less than the DCA Advantage Account portion of the Nonforfeiture Value.

## SECTION TEN - GENERAL PROVISIONS

### 10.1 What Constitutes The Entire Contract?

This entire contract consists of this Policy, any attached riders, endorsements, and a copy of the application, if attached. Only our Chairman, President, Secretary, or one of our Executive Officers may change the Policy, when not prohibited by the laws of the state in which this Policy is issued, and then only in writing. No change will be made in the contract unless you agree. No Registered Representative is authorized to change this contract or waive any provisions of this contract.

### 10.2 How Important Is The Information You Provided For This Policy?

In issuing this Policy, we have relied on the information you provided. If you signed an application, such information includes statements made in the application. All such statements are deemed to be representations and not warranties. We assume these statements are true and complete to the best of the knowledge and belief of those who made them. No such statement will be used by us to contest this Policy unless that statement is a material misrepresentation.

### 10.3 Will We Be Able To Contest This Policy?

We will not contest this Policy after the Policy has been in force, while you are living, for two (2) years from the Issue Date. If no application was signed, this Policy will not be contested on the basis of any information that would generally be contained in an application.

### 10.4 How Are The Dates Referred To In This Policy Measured?

Policy Years, months, and anniversaries are measured from the Policy Date. Payment Years are measured from the Payment Date.

### 10.5 How Is A Person's Age Calculated For The Purpose Of This Policy?

In this Policy when we refer to a person's Age on any date, we mean his or her Age attained at his or her last birthday.

### 10.6 What Happens If In This Policy A Person's Age Or Sex Is Stated Incorrectly?

If a date on the Policy Data Page is based on an Age that is not correct, we may change the date to reflect the correct Age. If the Age or sex of the Annuitant shown on the Policy Data Page is not

correct as stated, any amount payable under this Policy will be adjusted to what the premiums paid would have purchased at the correct Age and sex. If payments were made based on the incorrect Age or sex, we will increase or reduce a later payment or payments to adjust for the error. Any adjustment will include interest, at three percent (3.0%) per year, from the date of the incorrect payment to the date the adjustment is made.

### 10.7 May You Assign Or Transfer This Policy?

During your lifetime, you may assign or transfer your interest in this Policy (non-Qualified Plan policies only). If you do this, your interest, and the interest of any Beneficiary, is subject to that of the assignee. As Owner, you retain any rights of ownership that have not been assigned or transferred.

### 10.8 How Do You Assign This Policy?

You must provide us with a copy of any assignment of this Policy. We will not be responsible for the validity of any assignment. Unless otherwise specified by the Owner, any assignment we record will take effect as of the date you signed the notice, subject to any payment we made or other action we took before receiving the notice.

### 10.9 May The Assignee Change The Owner, Annuitant, Or Beneficiary?

No. The assignee may not change the Owner, Annuitant, or Beneficiary. The assignee also may not elect an alternate Income Payment option. Any amount payable to the assignee will be made in a single sum.

### 10.10 Are The Payments Made Under The Terms Of This Policy Protected Against Creditors?

Except as stated in Section 10.7, payments we make under this Policy are, to the extent the law permits, exempt from the claims, attachments, or levies of any creditors.

### 10.11 How Should Premium Payments For This Policy Be Made?

Any Premium Payments made to us by check or money order must be payable to New York Life Insurance and Annuity Corporation or NYLIAC. When asked, we will give you a receipt, signed by our Registered Representative, for any premium paid to us.

**10.12 How Is The Guaranteed Accumulation Value Calculated For This Policy?**

The guaranteed Accumulation Value of the Fixed Account and of the DCA Advantage Account in this Policy are based on interest credited at an annual effective rate. This guaranteed rate is shown on the Policy Data Page. The Fixed Account Accumulation Value and DCA Advantage Account Accumulation Value will never be less than the Nonforfeiture Value.

**10.13 Is This Policy Subject To Conformity With Any Law?**

Yes. This Policy is subject to all laws that apply. Any paid-up annuity, cash surrender or death benefits available under this Policy are not less than the minimum benefits required by any regulation or statute of the state in which this Policy is issued.

**10.14 Are There Any Dividends Payable Under This Policy?**

No. This is a non-participating Policy. Therefore, no dividends are payable.

**NEW YORK LIFE INSURANCE  
AND ANNUITY CORPORATION**

Home Office – [200 Continental Drive, Suite 306  
Newark, Delaware]

Executive Office – [51 Madison Avenue  
New York, NY 10010]

A Stock Company Incorporated in Delaware.

**Flexible Premium Deferred Variable Annuity**

Periodic Income Payments Begin On The Annuity  
Commencement Date. Premiums May Be Paid  
While You Are Living, As Defined In This Policy.

**The Accumulation Value May Increase Or  
Decrease Based On The Investment Experience  
Of The Separate Account.**

**Accumulation Values Based On The  
Performance Of The Separate Account Are  
Variable And Are Not Guaranteed As To Dollar  
Amount.**

This Policy Is Non-Participating.

ANNUITANT- - JOHN DOE  
POLICY NUMBER- -00 000 000  
POLICY DATE- -JANUARY 1, 2009

## NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

(A Delaware Corporation)

Home Office  
[200 Continental Drive, Suite 306]  
[Newark, Delaware 19713]

Executive Office  
[51 Madison Avenue]  
[New York, NY 10010]

**THE CORPORATION** New York Life Insurance and Annuity Corporation (NYLIAC), a stock company incorporated in Delaware, will pay the benefits of this Flexible Premium Deferred Variable Annuity (the "Policy") in accordance with its provisions. The following pages are also a part of this Policy.

**PAYMENT OF PREMIUMS** At any time before the Annuity Commencement Date and while you are living, premiums may be paid at any interval or by any method we make available. Premium Payments are subject to the limitations defined in this Policy. The initial Premium Payment is shown on the Policy Data Page.

**INCOME PAYMENTS** On the Annuity Commencement Date, the Accumulation Value will be applied to provide periodic Income Payments, as stated in the Income Payments Section.

**DEATH BENEFIT** If you die before the Annuity Commencement Date, we will pay death benefit proceeds to the Beneficiary upon our receipt of Proof of Death and all claim information.

**RIGHT TO RETURN POLICY** Please examine this Policy. Within 10 days (or longer if required by state law) after delivery, you may return it to the Corporation or to the registered representative through whom it was purchased, along with a written request for a cancellation. Upon receipt of this request, we will promptly cancel this Policy and refund this Policy's Accumulation Value less any Premium Credit(s). The amount refunded to you may be more or less than the Premium Payment(s). In states where required, we will promptly refund the Premium Payment(s) less any Partial Withdrawals.

**REPORT TO OWNER** At least once each Policy Year, and within sixty (60) days of the end of the reporting period, NYLIAC will provide a report that will tell you how much Accumulation Value there is as of the end of the reporting period. It will also give you any other facts for this Policy required by state law or regulations. The Corporation will mail the report to your last known address.

The Issue Date is shown on the Policy Data Page.

**TOLL FREE #** [800-598-2019]

  
President

  
Secretary

[New York Life Extra Credit Variable Annuity]

(A Flexible Premium Deferred Variable Annuity)

Periodic Income Payments Begin On The Annuity Commencement Date.  
Premiums May Be Paid While You Are Living, As Defined In This Policy.

**THE ACCUMULATION VALUE MAY INCREASE OR DECREASE BASED ON THE INVESTMENT EXPERIENCE OF THE SEPARATE ACCOUNT.**

**ACCUMULATION VALUES BASED ON THE PERFORMANCE OF THE SEPARATE ACCOUNT ARE VARIABLE AND ARE NOT GUARANTEED AS TO DOLLAR AMOUNT.**

This Policy Is Non-Participating.

**READ THIS POLICY CAREFULLY.** It is a legal contract between the Owner and the Corporation.

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

HOME OFFICE –  
[200 CONTINENTAL DRIVE, SUITE 306]  
[NEWARK, DELAWARE 19713]

EXECUTIVE OFFICE –[51 MADISON AVENUE]  
[NEW YORK, NY 10010]

**POLICY DATA PAGE**

**ANNUITANT** -- [JOHN DOE] AGE: [55] [MALE]  
**POLICY NUMBER** -- [00 000 000]  
**POLICY DATE** -- [JANUARY 1, 2009]  
**OWNER** -- [THE ANNUITANT] AGE: [55] [MALE]  
**PLAN** -- [NON-QUALIFIED]

**ALLOCATION ALTERNATIVES AVAILABLE:**  
(See Next Page)

**DOLLAR COST AVERAGING (DCA) ADVANTAGE ACCOUNT AVAILABLE:**  
6-Month DCA Advantage Account

**PREMIUM PAYMENT:**  
Initial Premium Payment: [\$5,000]  
Initial Premium Payment Date: [January 1, 2009]

**INTEREST RATE:**  
Guaranteed Minimum Interest Rate - DCA Advantage Account: [1.0%] (Annual Effective Rate)  
Guaranteed Minimum Interest Rate - Fixed Account: [1.0%] (Annual Effective Rate)  
Nonforfeiture Rate: [1.70%]

**PREMIUM CREDIT RATE:**  
Current Premium Credit Rate: [3.0%]  
Guaranteed Minimum Premium Credit Rate: [2.0%] of Initial Premium Payment

**ANNUITY COMMENCEMENT DATE:** [January 1, 2044]

**SURRENDER CHARGE SCHEDULE:**

| PAYMENT YEAR | PERCENTAGE | PAYMENT YEAR | PERCENTAGE |
|--------------|------------|--------------|------------|
| 1            | 8%         | 5            | 5%         |
| 2            | 8%         | 6            | 4%         |
| 3            | 7%         | 7            | 3%         |
| 4            | 6%         | 8            | 2%         |
|              |            | 9+           | 0%         |

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**POLICY DATA PAGE**

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**ALLOCATION ALTERNATIVES**

***INVESTMENT DIVISIONS***

MainStay VP Balanced  
MainStay VP Bond  
MainStay VP Capital Appreciation  
MainStay VP Cash Management  
MainStay VP Common Stock  
MainStay VP Conservative Allocation Port  
MainStay VP Convertible  
MainStay VP Developing Growth  
MainStay VP Floating Rate  
MainStay VP Government  
MainStay VP Growth Allocation Portfolio  
MainStay VP High Yield Corporate Bond  
MainStay VP ICAP Select Equity Portfolio  
MainStay VP International Equity  
MainStay VP Large Cap Growth  
MainStay VP Mid-Cap Core  
MainStay VP Mid-Cap Growth  
MainStay VP Mid-Cap Value  
MainStay VP Moderate Allocation Port  
MainStay VP Moderate Growth Allocation  
MainStay VP S&P 500 Index  
MainStay VP Small-Cap Growth  
MainStay VP Total Return

CVS Calvert Social Balanced  
Columbia Small Cap Value Fund Variable Series  
Dreyfus IP Technology Growth  
Fidelity VIP Contrafund  
Fidelity VIP Equity-Income  
Fidelity VIP Mid Cap  
Janus Aspen Series Balanced  
Janus Aspen Series Worldwide Growth  
MFS Investors Trust Series  
MFS Research Series  
MFS Utilities Series  
Neuberger Berman AMT Mid Cap Growth  
Royce Micro-Cap Portfolio – Inv Cls  
Royce Small-Cap Portfolio – Inv Cls  
T. Rowe Price Equity Income Portfolio  
Van Eck Worldwide Hard Assets  
Van Kampen UIF Emerging Markets Equity  
Victory VIF Diversified Stock

***FIXED ACCOUNT***

**DATE OF ISSUE:** [February 5, 2009]

**POLICY DATA PAGE**  
(Page 2 Cont'd.)

**MINIMUMS:**

|  |            |
|--|------------|
| Additional Premium Payment:  | \$5,000    |
| Partial Withdrawal amount:   | \$500      |
| Accumulation Value after a Partial Withdrawal:   | \$2,000    |
| Premium Payment amount allocated to an Allocation Alternative:                         | \$25       |
| Transfer amount to an Investment Division:   | \$25       |
| Transfer amount from an Investment Division:   | \$500      |
| Balance that must be maintained in an Investment Division after a transfer:            | \$500      |
| [Transfer amount to the Fixed Account:   | \$500]     |
| Transfer amount from the Fixed Account:  | No Minimum |
| Balance that must be maintained in the Fixed Account after a transfer:                 | \$25       |
| Traditional Dollar Cost Averaging Option transfer amount:                              | \$100      |
| Accumulation Value required to elect the Traditional Dollar Cost Averaging Option:     | \$2,500    |
| Automatic Asset Reallocation Option transfer amount:                                   | No Minimum |
| Variable Accumulation Value required to elect the Automatic Asset Reallocation Option: | \$2,500    |
| Interest Sweep Option transfer amount:   | No Minimum |
| Fixed Account Accumulation Value required to elect the Interest Sweep Option:          | \$2,500    |
| Premium Payment amount allocated to the DCA Advantage Account:                         | \$5,000    |

**MAXIMUMS:**

|   |               |
|---|---------------|
| Premium Payment allowed without prior approval from NYLIAC: | [\$1,000,000] |
| Age for which additional Premium Payments may be made:      | 75            |

**Transfers:**

Charge for each transfer made to or from an Investment Division and/or [to or] from the Fixed Account after the first twelve (12) transfers in a Policy Year: \$30

During the Surrender Charge period for the initial Premium Payment, the sum of all transfers from the Fixed Account, including Interest Sweep Option transfers, in a Policy Year may not exceed 25% of the highest attained Fixed Account Accumulation Value on any Policy Anniversary (Policy Date if in the first Policy Year). After this Surrender Charge period ends, transfers may not exceed 50% of the highest attained Fixed Account Accumulation Value on any Policy Anniversary, regardless of any new Surrender Charge periods applicable to additional Premium Payments. The highest attained Fixed Account Accumulation Value will decrease by the amount of any withdrawals made from the Fixed Account, and increase by the amount of any additional Premium Payments made to the Fixed Account. When the Fixed Account Accumulation Value is zero, all previous Fixed Account anniversary values are disregarded, and the next Premium Payment to the Fixed Account will then be considered the highest attained Fixed Account Accumulation Value until a subsequent anniversary results in a higher balance.

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**POLICY DATA PAGE**

(Page 2 Cont'd.)

[No transfers are permitted from the Investment Divisions to the Fixed Account.]

[Transfers to the Fixed Account are only permitted if no transfers were made from the Fixed Account during the past six (6) months.]

**POLICY SERVICE CHARGE:** The sum of \$30 may be deducted from the Accumulation Value on each Policy Anniversary and on the date the Policy is surrendered. However, this fee is waived if, on the Policy Anniversary or on the date of surrender, the Accumulation Value is \$100,000 or greater. The Policy Service Charge is deducted from each Allocation Alternative and the DCA Advantage Account in proportion to its percentage of the Accumulation Value on the Policy Anniversary and on the date of surrender.

**[SEPARATE ACCOUNT MORTALITY AND EXPENSE RISK AND ADMINISTRATIVE COSTS CHARGE:**  
A charge, equal on an annual basis to [1.75%] of the Adjusted Premium Payment and the portion of the Premium Payment(s) transferred from the Fixed Account to the Investment Divisions, will be deducted from the Variable Accumulation Value each policy quarter and on the date the policy is surrendered. The Adjusted Premium Payment is defined as the total Premium Payment(s) allocated to the Investment Divisions of NYLIAC Variable Annuity Separate Account IV and the DCA Advantage Account reduced by withdrawals and applicable surrender charges in excess of any gain in the Policy. This charge will be deducted, in the form of a reduction of Accumulation Units, from each Investment Division on a pro-rata basis. This charge will not affect the value of an Accumulation Unit.

**NET INVESTMENT FACTOR:**

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of the Separate Account for the Valuation Period is determined by dividing a) by b) where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus
- 2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period; and

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division determined as of the end of the immediately preceding Valuation Period.]

**[SEPARATE ACCOUNT MORTALITY AND EXPENSE RISK AND ADMINISTRATIVE COSTS CHARGE:**

A charge, equal on an annual basis to [1.65%] of the daily average Variable Accumulation Value.

**NET INVESTMENT FACTOR:**

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of NYLIAC Variable Annuity Separate Account III for the Valuation Period is determined by dividing (a) by (b) and subtracting (c) from the result, where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus

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**POLICY DATA PAGE**

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2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period; and

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division determined as of the end of the immediately preceding Valuation Period; and

c) is the daily Mortality and Expense Risk and Administrative Costs Charge, which is  $1/365^{\text{th}}$ \* of the annual Mortality and Expense Risk and Administrative Costs Charge shown on the Policy Data Page.

\* In a leap year this calculation is based on 366 days.]

**RIDERS:**

**UPROMISE**

**LIVING NEEDS BENEFIT**

**UNEMPLOYMENT BENEFIT**

**ENHANCED BENEFICIARY BENEFIT**

**INVESTMENT PROTECTION PLAN**

**ANNUAL DEATH BENEFIT RESET**

**BREAKPOINT CREDIT**

**Please see attached rider(s) to this policy for details**

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## WE & YOU

In this Policy, the words “we,” “our,” “us,”  
“Corporation” and “NYLIAC” refer to New York Life

Insurance and Annuity Corporation, and the words  
“you” and “your” refer to the Owner of this Policy.

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**You may contact us at our service center address specified in the product prospectus or any alternate address we provide. When you write to us, please include your Policy number, your full name and your current address.**

## DEFINITIONS

**These terms are capitalized when used throughout this Policy.**

**ACCUMULATION UNIT:** An accounting unit we use to calculate the Variable Accumulation Value prior to the Annuity Commencement Date. Each Investment Division of the Separate Account has a distinct variable Accumulation Unit value.

**ACCUMULATION VALUE:** The sum of the Variable Accumulation Value, Fixed Account Accumulation Value and Dollar Cost Averaging (DCA) Advantage Account Accumulation Value, of this Policy for any Valuation Period.

### **ADJUSTED DEATH BENEFIT PREMIUM**

**PAYMENTS:** The total dollar amount of Premium Payments made under this Policy reduced by any Adjusted Death Benefit Premium Payment Proportional Withdrawals.

### **ADJUSTED DEATH BENEFIT PREMIUM**

**PAYMENT PROPORTIONAL WITHDRAWAL:** An amount equal to the amount withdrawn from this Policy (including any amount withdrawn that may include Surrender Charges), divided by this Policy's Accumulation Value immediately preceding the withdrawal, multiplied by the Adjusted Death Benefit Premium Payments immediately preceding the withdrawal.

**AGE:** A person's age attained at his or her last birthday.

**ALLOCATION ALTERNATIVES:** The Investment Divisions of the Separate Account and the Fixed Account.

**ANNUITANT:** The person named on the Policy Data Page and whose life determines the Income Payments.

**ANNUITY COMMENCEMENT DATE:** The date on which the first Income Payment under this Policy is to be made.

**BENEFICIARY:** The person(s) or entity(ies) having the right to receive the death benefit set forth in this Policy and who is the "designated Beneficiary" for purposes of Section 72 of the Internal Revenue Code.

**BUSINESS DAY:** Any day on which the New York Stock Exchange (NYSE) is open for trading. Our Business Day ends at 4:00 p.m. Eastern Standard

Time or the close of regular trading on the NYSE, if earlier.

**CONSIDERATION:** A Premium Payment, or a portion thereof and/or, if allowable, a transfer amount from an Investment Division to the Fixed Account.

### **DOLLAR COST AVERAGING ("DCA")**

**ADVANTAGE ACCOUNT:** The account from which you are permitted to transfer amounts to the Investment Divisions proportionally on a monthly basis.

The DCA Advantage Account duration is shown on the Policy Data Page. The DCA Advantage Account is credited with a fixed interest rate. The assets in the DCA Advantage Account are not part of the Separate Account of NYLIAC.

### **DCA ADVANTAGE ACCOUNT ACCUMULATION**

**VALUE:** The sum of the Premium Payments and Premium Credits allocated to the DCA Advantage Account, plus interest credited on those Premium Payments and Premium Credits, less transfers and any Partial Withdrawals from the DCA Advantage Account, and less any Surrender Charges, Policy Service Charges and rider charges assessed from the DCA Advantage Account. The DCA Advantage Account Accumulation Value is supported by assets in NYLIAC's General Account.

The DCA Advantage Account Accumulation Value will never be less than the DCA Advantage Account portion of the Nonforfeiture Value.

**ELIGIBLE PORTFOLIOS ("Portfolios"):** The portfolios of the Fund that are available for investment through the Investment Divisions of the Separate Account, as shown on the Policy Data Page.

**FIXED ACCOUNT:** The account that is credited with a fixed interest rate. The assets in the Fixed Account are not part of the Separate Account of NYLIAC.

**FIXED ACCOUNT ACCUMULATION VALUE:** The sum of the Premium Payments, Premium Credits and, if allowable, transfers allocated to the Fixed Account, plus interest credited on those Premium Payments, Premium Credits, and, if allowable, transfers, less any Partial Withdrawals and transfers

from the Fixed Account, and less any Surrender Charges, Policy Service Charges and rider charges assessed from the Fixed Account. The Fixed Account Accumulation Value is supported by assets in NYLIAC's General Account. The Fixed Account Accumulation Value will never be less than the Fixed Account portion of the Nonforfeiture Value.

**FUND:** MainStay VP Series Fund, Inc., a diversified open-end management investment company registered under the Investment Company Act of 1940, and any other registered open-end management investment company that offers Eligible Portfolios.

**GENERAL ACCOUNT:** Includes all of NYLIAC's assets except those assets specifically allocated to the Separate Account. These assets are subject to the claims of our general creditors.

**GUARANTEED CASH SURRENDER VALUE:** The Guaranteed Cash Surrender Value is applicable only to the Fixed Account Accumulation Value and/or to the DCA Advantage Account Accumulation Value. No such guarantee is applicable to the Variable Accumulation Value. The Guaranteed Cash Surrender value is equal to the greater of:

- a) the sum of the Fixed Account Accumulation Value and the DCA Advantage Account Accumulation Value based on the guaranteed minimum interest rate for each account, as shown on the Policy Data Page, less any Surrender Charges that may apply; or
- b) the Nonforfeiture Value.

**INCOME PAYMENTS:** Periodic payments NYLIAC makes to the named Payee beginning on the Annuity Commencement Date.

**INVESTMENT DIVISION ("DIVISION"):** The variable investment options available with this Policy. Each Investment Division, a division of the Separate Account, invests exclusively in shares of a specified Eligible Portfolio.

**ISSUE DATE:** The date this Policy is produced for delivery.

**NYLIAC ("Corporation, we, us, our"):** New York Life Insurance and Annuity Corporation, which is a wholly-owned Delaware subsidiary of New York Life Insurance Company. You may contact us at our service center address specified in the product prospectus to submit inquiries and Policy requests.

**NONFORFEITURE RATE:** The rate used to calculate the Fixed Account and DCA Advantage

Account Nonforfeiture Values This rate, as shown on the Policy Data Page, is equal to the lesser of:

- a) 3.00% and;
- b) a rate that is not less than 1.00% and determined by using the six-month average of the five-year Constant Maturity Treasury Rate reported by the Federal Reserve for December through May (for period beginning July 1) and June through November (for period beginning January 1), rounded to the nearest .05%, minus 1.25%.

**NONFORFEITURE VALUE:** The Nonforfeiture Value is equal to 87.50% of the Consideration(s) allocated to the Fixed Account and/or to the DCA Advantage Account accumulated at the Nonforfeiture Rate since the Payment Date or transfer date, minus any amounts withdrawn or transferred from the Fixed Account and/or the DCA Advantage Account, with the remaining amount accumulated at the Nonforfeiture Rate since the date of withdrawal or transfer.

**OWNER ("you, your"):** The person(s) or entity(ies) designated as the Owner in this Policy, or as subsequently changed, and upon whose death prior to the Annuity Commencement Date benefits under this Policy may be paid. If NYLIAC issues a jointly owned Policy, ownership rights and privileges under this Policy must be exercised jointly and death benefits payable under this Policy, prior to the Annuity Commencement Date, will be paid upon the death of any joint Owner.

**PARTIAL WITHDRAWAL:** Any part of the Accumulation Value paid to you, at your request, in accordance with the terms of this Policy.

**PAYEE:** The recipient(s) of Income Payments under this Policy, generally the Owner.

**PAYMENT DATE:** The Business Day on which we receive a Premium Payment at the address specified in the product prospectus to receive such payment.

**PAYMENT YEAR:** A year as measured from the Payment Date of the initial Premium Payment or from the Payment Date of any additional Premium Payments made to this Policy.

**PREMIUM CREDIT:** An additional credit applied to this Policy's Accumulation Value when we receive a Premium Payment. The Premium Credit is calculated as a percentage (the "Premium Credit Rate") of each Premium Payment. The Premium Credit is not a Premium Payment. The Premium Credit Rate will never be less than the guaranteed

minimum Premium Credit Rate shown on the Policy Data Page.

**POLICY ANNIVERSARY:** An anniversary of the Policy Date displayed on the Policy Data Page.

**POLICY DATA PAGE:** Page (2) of this Policy, containing the Policy specifications.

**POLICY DATE:** The date the Policy is executed and from which Policy Years, quarters, months, and Policy Anniversaries are measured. It is shown on the Policy Data Page.

**POLICY YEAR:** A year starting on the Policy Date. Subsequent Policy Years begin on each Policy Anniversary unless otherwise indicated.

**PREMIUM PAYMENT:** An amount paid to the Corporation as Consideration for the benefits provided by this Policy.

**PROOF OF DEATH:** Evidence that death has occurred including at least one of the following: a certified copy of the death certificate, an attending physician's statement, a finding from a court of competent jurisdiction or any other proof that is acceptable to us.

**QUALIFIED PLAN:** A retirement plan under the Internal Revenue Code, including Sections 401(a), 403(b), 408, 408(A) and 457(b).

**RMD AUTOMATED OPTION:** The calculation and automatic processing of the Required Minimum Distribution (RMD) under certain Qualified Plans pursuant to IRC Section 401(a)(9) on a scheduled interval (monthly, quarterly, semi-annually, or annually). RMD is an amount that the IRS requires the owners of certain Qualified Plans to withdraw each year generally beginning no later than April 1 of the calendar year following the calendar year in which the owner attains age 70 ½.

**SEPARATE ACCOUNT:** A segregated asset account of the Corporation, as identified on the Policy Data Page, established to receive and invest Premium Payments made and Premium Credits applied under this Policy. The Separate Account's Investment Divisions, in turn, purchase shares of Eligible Portfolios.

**SURRENDER CHARGE:** An amount charged by the Corporation during the Surrender Charge period as shown under the Surrender Charge schedule on the Policy Data Page, and assessed when a Partial Withdrawal of the Accumulation Value is made or when this Policy is surrendered for its Accumulation Value.

**VALUATION PERIOD:** The period from the close of the immediately preceding Business Day to the close of the current Business Day.

**VARIABLE ACCUMULATION VALUE:** The sum of the current Accumulation Unit's value for each of the Investment Divisions multiplied by the number of Accumulation Units held in the respective Investment Divisions.

## SECTION ONE - INCOME PAYMENTS

### 1.1 When Will Income Payments Begin?

We will apply the Accumulation Value of this Policy to the Life Income – Guaranteed Period Payment option and make Income Payments to you each month beginning on the Annuity Commencement Date shown on the Policy Data Page or as changed in accordance with Section 1.2. Income Payments will begin if this Policy is in force on that date. If the Accumulation Value of this Policy is an amount that would provide Income Payments of less than \$20 a month on the Annuity Commencement Date, we will pay you the Accumulation Value in a single sum.

### 1.2 May The Annuity Commencement Date Be Changed?

Yes. If we agree, the Annuity Commencement Date, shown on the Policy Data Page, may be changed to an earlier date or deferred to a later date. If you wish to change the date, you must notify us in writing at least one month before the Annuity Commencement Date. The Annuitant's Age on the Annuity Commencement Date may not be greater than the Age as required by the laws of the state in which this Policy was issued.

### 1.3 How Are Payments Made Under the Life Income – Guaranteed Period Payment Option?

We will make equal payments to the Payee each month during the lifetime of the Annuitant. Once Income Payments start, they do not change and are guaranteed for a period of ten (10) years (120 monthly payments) even if the Annuitant dies sooner. We may require proof of the Annuitant's birth date before Income Payments begin. Please note that we may also require proof of the Annuitant's survival as a condition for Income Payments beyond the guaranteed period.

### 1.4 How Are Life Income – Guaranteed Period Payment Amounts Determined?

We will determine the amount of each monthly payment on the Annuity Commencement Date. We do this by applying the total Accumulation Value of the Policy, less any state premium tax that may be payable as provided in Section 4.8, to the Income Payment rate in effect on the Annuity Commencement Date. Income Payment rates are based on the adjusted Age and sex of the Annuitant. To find the adjusted Age in the year the first payment is due, we will adjust the Annuitant's Age at that time according to the following table:

|           |           |           |              |
|-----------|-----------|-----------|--------------|
| 2009-2018 | 2019-2028 | 2029-2038 | 2039 & later |
| 0         | -1        | -2        | -3           |

The amount of each monthly Income Payment will not be less than an amount based on the corresponding rate shown in the Life Income – Guaranteed Period Payment Table. These minimum amounts are based on the 1983 Individual Annuity Mortality Table a with Projection Scale G and with interest compounded annually at one and one half percent (1.5%).

When asked, we will state in writing what the minimum amount of each monthly Income Payment would be under this provision.

### LIFE INCOME – GUARANTEED PERIOD PAYMENT TABLE

(Minimum Monthly Payment Guaranteed for 10 years for \$1,000 of Proceeds)

| Adjusted Age | Male | Female |
|--------------|------|--------|
| 60           | 3.64 | 3.21   |
| 61           | 3.74 | 3.29   |
| 62           | 3.85 | 3.38   |
| 63           | 3.96 | 3.47   |
| 64           | 4.08 | 3.56   |
| 65           | 4.20 | 3.66   |
| 66           | 4.33 | 3.77   |
| 67           | 4.46 | 3.88   |
| 68           | 4.60 | 4.00   |
| 69           | 4.75 | 4.12   |
| 70           | 4.90 | 4.26   |
| 71           | 5.06 | 4.40   |
| 72           | 5.22 | 4.55   |
| 73           | 5.39 | 4.70   |
| 74           | 5.56 | 4.87   |
| 75           | 5.74 | 5.04   |
| 76           | 5.93 | 5.22   |
| 77           | 6.11 | 5.41   |
| 78           | 6.30 | 5.61   |
| 79           | 6.49 | 5.81   |
| 80           | 6.69 | 6.01   |
| 81           | 6.88 | 6.22   |
| 82           | 7.06 | 6.43   |
| 83           | 7.24 | 6.64   |
| 84           | 7.42 | 6.85   |
| 85+          | 7.59 | 7.05   |

### 1.5 Are There Any Other Methods Of Income Payment?

Yes. On or before the Annuity Commencement Date you may elect to have the Accumulation Value paid to you in a single sum, or if we agree, the proceeds may be placed under some other Income Payment option we may offer at that time.

## SECTION TWO- ANNUITANT, OWNER, BENEFICIARY

### 2.1 What Are The Rights Of Ownership Of This Policy?

As the Owner of this Policy, you have the right to name a new Owner or assign your interest in this Policy on non-Qualified Plan policies only, change the Beneficiary, receive Income Payments, and name a Payee to receive Income Payments. If this Policy is jointly owned, these rights must be exercised jointly. To exercise these rights, you do not need the consent of the Annuitant or any revocable Beneficiary. You cannot lose these rights. However, all rights of ownership end at your death.

### 2.2 May The Owner Be Different From The Annuitant?

Yes. The Owner of this Policy may be different from the Annuitant, but unless it is indicated on the Policy Data Page, or unless ownership is subsequently changed, you are both the Annuitant and Owner of this Policy. Generally, the Annuitant and Owner must be the same individual for policies issued in connection with Qualified Plans.

### 2.3 How Do You Change The Owner Of This Policy?

If this Policy is issued as a non-Qualified Plan, you may change the Owner of this Policy, from yourself to a new Owner, in a notice you sign which gives us the facts that we need. This change will take effect as of the date you signed the notice, subject to any payment we made or action we took before recording the change. When this change takes effect, all rights of ownership in this Policy will pass to the new Owner. Changing the Owner of this Policy does not change the Annuitant or any Beneficiary.

### 2.4 May More Than One Beneficiary Be Named?

Yes. You may name more than one Beneficiary. Multiple Beneficiaries may be classified as primary (or first class), contingent (or second class), and so on. If two or more Beneficiaries are named in a class, their shares in any amount payable may be stated. Any amount payable will be paid to any Beneficiary, classified as primary, who survives you. If no Beneficiary classified as primary survives you, payment will be made to any surviving in the next class, and so on. Those Beneficiaries who survive in the same class have an equal share, to the extent possible, in any amount payable, unless the shares are stated otherwise.

### 2.5 May You Change A Beneficiary?

Yes. During your lifetime, you may change a revocable Beneficiary in a signed notice that is satisfactory to us. When we record a change, it will take effect as of the date you signed the notice, subject to any payment we made or action we took before recording the change.

### 2.6 What Happens If The Annuitant Dies Before The Annuity Commencement Date?

If the Annuitant is not the Owner and the Annuitant dies before the Annuity Commencement Date, when we receive Proof of Death you will become the Annuitant of this Policy. If the Policy is jointly owned, the first Owner named will become the Annuitant. If the Owner is not a natural person, the Policy ends and we will pay to the Beneficiary(ies) the death benefit proceeds, which is an amount as provided in Section 2.8.

### 2.7 What Happens If The Annuitant Dies After The Annuity Commencement Date?

If the Annuitant dies after the Annuity Commencement Date, but before the end of the guaranteed period of the Income Payments, we will continue to make these payments to the Beneficiary for the remainder of the Income Payment period, even if the Payee is alive. No amount will be payable to a Beneficiary if the Annuitant dies after the end of an Income Payment guaranteed period under any payment option.

### 2.8 What Happens If You Die Before The Annuity Commencement Date?

If you die before the Annuity Commencement Date, when we receive Proof Of Death and all claim information, we will pay to the Beneficiary(ies) the death benefit, which is an amount equal to the greater of:

- a) the Accumulation Value of this Policy less any Premium Credits credited to the Accumulation Value if the credits occur within the immediately preceding twelve (12) months of the date of death, or
- b) the Adjusted Death Benefit Premium Payments.

If this Policy is jointly owned, this provision will apply at the death of either Owner.

Payment will be made in a single sum or in accordance with the Beneficiary's election as provided for in Section 2.10 or 2.11. The payment will be calculated as of the date we receive Proof of

Death and all claim information to make payment. This Policy will end on such date. However, if your surviving spouse is the sole primary Beneficiary, your spouse may elect in writing, to become the new Owner of this Policy, as provided in Section 2.12, subject to certain Qualified Plan limitations.

If the Owner is not a natural person, a death benefit will be paid if the Annuitant dies before the Annuity Commencement Date (see Section 2.6). In this event, the spousal continuance option as explained in Section 2.12 does not apply.

### **2.9 What Happens If You Die After The Annuity Commencement Date?**

Unless otherwise provided, if you die after the Annuity Commencement Date and before the Annuitant, the Annuitant will become the new Owner of this Policy. If this Policy is jointly owned, the surviving Owner will become the sole Owner. The Annuitant, if still living, will become the new Owner after the death of the surviving Owner.

### **2.10 When Will We Process A Request for Payment of the Death Benefit?**

Claim information must be submitted for each Beneficiary. Upon receiving Proof of Death and all claim information from a Beneficiary, we will pay to that Beneficiary his/her full share of any amount of the death benefit. The payment will be made within seven (7) days. However, it may happen that the New York Stock Exchange is closed for other than usual weekends or holidays, or the Securities and Exchange Commission restricts trading or determines that an emergency exists. If so, it may not be practical for us to determine the investment experience of the Separate Account. In that case, we may defer payment of the death benefit request. Any amount invested in the Fixed Account as of the date of death will be credited with interest computed daily from the date of death to the date of payment. We set the interest rate each year. This rate will not be less than the rate required by law.

### **2.11 Does A Beneficiary Have To Accept The Death Benefit Of This Policy At Your Death?**

Full payment of the death benefit proceeds will be made to the Beneficiary within five (5) years after the date of your death. However, at your death, your Beneficiary is not required to accept the death benefit proceeds of this Policy if you or the Beneficiary (after your death), choose in a signed notice, to have all or part of this payment placed

under the Life Income – Guaranteed Period Option or any other Income Payment option that we may have available for the Beneficiary. Payment under the Life Income-Guaranteed Period Option or any other Income Payment option must be for the life of the Beneficiary or for a number of years that is not more than the life expectancy (as determined for federal tax purposes) of the Beneficiary, at the time of your death, and must begin within one year after your death.

### **2.12 What Happens If Your Spouse Is The Beneficiary?**

If your spouse is the sole primary Beneficiary and you die before the Annuity Commencement Date, this Policy may be continued with your spouse as the new Owner, subject to certain Qualified Plan limitations. If you are also the Annuitant, your spouse will become the new Annuitant. If your spouse chooses to continue this Policy, no death benefit proceeds will be paid as a consequence of your death.

### **2.13 What Happens If A Beneficiary Who Is Receiving Income Payments Dies?**

If a Beneficiary who is receiving Income Payments dies, each remaining Income Payment will be paid to those Beneficiaries in the same class who are alive when that Income Payment becomes due. If a last Beneficiary in a class to receive Income Payments dies, each remaining Income Payment will be paid to those in the next class who are alive when that Income Payment becomes due, and so on. If no Beneficiary for any amount payable or for a stated share is alive, the present value of any remaining Income Payments is paid to the estate of the Beneficiary who dies last. The present value of any remaining Income Payments is always less than the total of those Income Payments. No amount will be payable to any Beneficiary after the end of the guaranteed period of Income Payments.

### **2.14 What Happens If No Beneficiary Survives You?**

If no Beneficiary for any amount payable, or for a stated share, survives you, the right to this amount or this share will pass to your estate. Payment of the proceeds will be made in a single sum to your estate. If any Beneficiary dies at the same time as you, or within fifteen (15) days after your death, but before we receive your Proof of Death and all claim information, we will pay any amount payable as though the Beneficiary died first.

## SECTION THREE- PREMIUM PAYMENTS

### 3.1 How Are Premium Payments Credited?

If we have received all of the information we require to issue this Policy, the initial Premium Payment will be credited within two Business Days after receipt. Additional Premium Payments will be credited to this Policy as of the Payment Date.

### 3.2 Are There Any Limitations Regarding The Amounts And Frequency Of Premium Payments?

At any time before the maximum Age shown on the Policy Data Page, while the Owner is living and before the Annuity Commencement Date, Premium Payments may be made at any interval and by any method we make available. The initial Premium Payment is the amount shown on the Policy Data Page. The minimum additional Premium Payment you can make is shown on the Policy Data Page. We reserve the right to reject or limit the dollar amount of any Premium Payment, when the aggregate amount of all Premium Payments is equal to or greater than the maximum amount stated on the Policy Data Page.

### 3.3 How Are Premium Payments Allocated?

The initial Premium Payment may be applied to one or more of the Allocation Alternatives and to the DCA Advantage Account shown on the Policy Data Page or to any other Investment Division(s) which may be made available by us for this Policy, in accordance with your instructions. All additional Premium Payments will be applied according to your instructions for the initial Premium Payment unless subsequently changed by you.

### 3.4 May The Allocation For Additional Premium Payments Be Changed?

Yes. You may notify us to change the allocation for additional Premium Payments among the Allocation Alternatives and the DCA Advantage Account after the Issue Date shown on the Policy Data Page. Premium Payments received after the date on which we receive your notice will be applied on the basis of the new instructions. You must indicate the percentage of each Premium Payment that will be allocated to the Allocation Alternatives and the DCA Advantage Account. The minimum amount of a Premium Payment that can be allocated to an Allocation Alternative or to the DCA Advantage Account is shown on the Policy Data Page. We reserve the right to limit the amount of a Premium Payment that may be allocated to any one Allocation Alternative or DCA Advantage Account, and to refuse the allocation of all or a portion of a Premium Payment to the Fixed Account.

### 3.5 May The Corporation Terminate This Policy?

Yes. If no Premium Payments have been received for two or more consecutive years and the Accumulation Value would provide Income Payments of less than \$20 a month on the Annuity Commencement Date, we have the right, subject to any applicable state law or regulation, to terminate this Policy and pay you the Accumulation Value in a single sum. We will notify you of our intention to exercise this right and allow you 90 days to make a Premium Payment.

## SECTION FOUR- CHARGES AND DISTRIBUTIONS

### 4.1 What Charges Will Be Deducted From Your Policy?

An annual Policy Service Charge may be applicable as shown on the Policy Data Page. That charge, if any, will be deducted from this Policy's Accumulation Value on each Policy Anniversary and on the date of a full surrender.

The Separate Account mortality and expense risk and administrative costs charge will be deducted from your Policy as described on the Policy Data Page.

During the Surrender Charge period, a Surrender Charge may be deducted from the Policy's Accumulation Value. Surrender Charges are explained in Section 4.6.

### 4.2 Are Additional Fees and Charges Deducted From Your Policy?

Any optional rider(s) that you elect will result in additional charges that will be deducted on a quarterly basis from this Policy's Accumulation Value.

### 4.3 Can You Surrender This Policy?

Yes. On any Business Day, before the Annuity Commencement Date, and after this Policy has an Accumulation Value, you may request a full surrender of the Accumulation Value, less any Surrender Charges, Policy Service Charges and/or additional fees and charges (including rider charges) that may apply. Surrender Charges are explained in Section 4.6 and on the Policy Data Page, Policy Service Charges are explained in Section 4.1 and on the Policy Data Page and additional fees and

charges are explained in Section 4.2 and, if applicable, on any attached riders.

#### **4.4 Can You Make A Partial Withdrawal From This Policy?**

Yes. After this Policy has an Accumulation Value, you may request a Partial Withdrawal by sending us your request at least thirty (30) days before the Annuity Commencement Date. The Partial Withdrawal may be for a selected amount or a percentage of the Accumulation Value. The minimum amount you may withdraw is shown on the Policy Data Page. You must indicate how it is to be withdrawn from the Allocation Alternatives and/or from the DCA Advantage Account. However, if you do not specify the Allocation Alternatives and/or the DCA Advantage Plan Account, NYLIAC will withdraw the money on a pro-rata basis from each Allocation Alternative and/or from the DCA Advantage Account. Partial Withdrawals will be made from the Investment Divisions by deducting Accumulation Units. Accumulation Units are explained in Section 7.9.

Partial Withdrawals will be made from your Fixed Account in the following sequence: first from the portion of the Fixed Account Accumulation Value attributed to the initial Premium Payment, then from the portion of the Fixed Account Accumulation Value attributed to subsequent Premium Payments in the order received.

Partial Withdrawals will be made from the DCA Advantage Account in the following sequence: first from the portion of the DCA Advantage Account Accumulation Value attributed to the initial Premium Payment, then from the portion of the DCA Advantage Account Accumulation Value attributed to subsequent Premium Payments in the order received.

A Surrender Charge will be assessed as shown on the Policy Data Page, except as provided in Section 4.7. If your request for a Partial Withdrawal is greater than the amount in the Allocation Alternative(s) and/or in the DCA Advantage Account, we will pay you the entire value of that Allocation Alternative(s) and/or that DCA Advantage Account, less any Surrender Charges that may apply.

A minimum Accumulation Value, as shown on the Policy Data Page, must remain in the Policy after a Partial Withdrawal. If a Partial Withdrawal would cause the total Accumulation Value of this Policy to fall below the minimum, we may not process the Partial Withdrawal request.

#### **4.5 When Will A Partial Withdrawal Or Full Surrender Be Processed?**

We will pay any Partial Withdrawal or full surrender proceeds within seven (7) days after we receive all necessary requirements. The Partial Withdrawal or full surrender value to be paid will be determined on the date we receive all requirements. However, it may happen that the New York Stock Exchange is closed for other than usual weekends or holidays, or the Securities and Exchange Commission restricts trading or determines that an emergency exists. If so, it may not be practical for us to determine the investment experience of the Separate Account. In that case, we may defer payment of a Partial Withdrawal or full surrender request from the Investment Divisions.

When not prohibited by the laws of the state in which this Policy is issued, we may defer payment of any Partial Withdrawal or full surrender request from the Fixed Account and/or the DCA Advantage Account for up to six (6) months from the Partial Withdrawal or full surrender request date after making a written request to and receiving written approval from the insurance commissioner of the state in which this Policy is issued. Interest will be paid on any amount deferred for thirty (30) days or more. If payments are deferred, we will pay interest at the rate specified by the Insurance Department of the state where your Policy was issued, from the date of the Partial Withdrawal or full surrender request. This rate will be at least three percent (3.0%) per year.

#### **4.6 Are Surrender Charges Deducted From Your Policy?**

During the Surrender Charge period, as shown under the Surrender Charge schedule on the Policy Data Page, a Surrender Charge may be applied each time a Partial Withdrawal is made, or when the Policy is surrendered. The Surrender Charge, if any, will be a percentage, as shown on the Policy Data Page, of the Accumulation Value withdrawn or surrendered. The applicable percentage corresponds with the Payment Year in which you make a Partial Withdrawal or full surrender request. The surrender charge will apply only if the amount of the withdrawal exceeds the greatest of:

- (a) 10% of the Accumulation Value as of the last Policy Anniversary (10% of the Premium Payment if the withdrawal is made in the first Policy Year), less any prior Partial Withdrawals, made during the current Policy Year, that were free of Surrender Charges; or

- (b) 10% of the current Accumulation Value at the time of the withdrawal, less any prior Partial Withdrawals, made during the current Policy Year, that were free of Surrender Charges; or
- (c) that portion of the current Accumulation Value, at the time of the withdrawal, that exceeds the total Premium Payments made to this Policy.

The Surrender Charge for the initial Premium Payment will be calculated from the Policy Date. For each subsequent Premium Payment, the Surrender Charge will be calculated from the Payment Date of each Premium Payment. Therefore, for purposes of calculating the Surrender Charge for additional Premium Payments, the second Payment Year begins on the first anniversary of that additional Premium Payment, the third Payment Year begins on the second anniversary of that additional Premium Payment, and so on. Upon a Partial Withdrawal, the Premium Payment producing the lowest Surrender Charge will be surrendered first. If more than one Premium Payment produces the same Surrender Charge, the oldest of those Premium Payments will be surrendered first.

#### **4.7 Are Surrender Charges Ever Waived?**

Yes. Surrender Charges will be waived:

- a) when proceeds are paid on the death of the Owner, or of the Annuitant if the Owner is not a natural person; or
- b) for any Required Minimum Distribution (RMD), as calculated by us, from the Accumulation Value of this Policy withdrawn under the RMD Automated option. However, if in addition to any RMD

withdrawals, Partial Withdrawals are made from the Policy during a Policy Year, all such withdrawals will be combined and a Surrender Charge will apply to that portion of the withdrawals that exceeds the greater of the calculated RMD amount, and the amount as explained in Section 4.6; or

- c) on amounts placed under the Life Income – Guaranteed Period Payment option, as described in Section 1.4, after the first Policy Year; or
- d) under conditions specified in any riders or endorsements attached to and made a part of this Policy; or
- e) if we terminate this Policy as explained in Section 3.5.

#### **4.8 Are State Premium Taxes Deducted From Your Policy?**

If we are required by state law to pay state premium taxes for your Policy, the amount of the state premium tax will be deducted from the Accumulation Value of your Policy on the earliest of:

- a) the date the Policy is surrendered; or
- b) the Annuity Commencement Date, before the Accumulation Value is placed under an Income Payment option as described in Section 1.4; or
- c) the date we terminate this Policy in accordance with Section 3.5.

However, the amount of the state premium tax will not be deducted from the Accumulation Value, if the Accumulation Value is paid as a death benefit.

## **SECTION FIVE – TRANSFERS**

#### **5.1 Can Transfers Be Made Between Investment Divisions?**

Yes. Transfers of the Variable Accumulation Value may be made between Investment Divisions.

#### **5.2 Can Transfers Be Made Between The Investment Divisions And The Fixed Account?**

Yes. You may make transfers between the Investment Divisions and the Fixed Account subject to certain limitations as described on the Policy Data Page.

Transfers will be made from the Fixed Account in the following sequence: first from the Fixed Account Accumulation Value attributed to the initial Premium

Payment and Premium Credit, then from the Fixed Account Accumulation Value attributed to subsequent Premium Payments, Premium Credits and transfers in the order received.

#### **5.3 How Do You Make Transfers?**

Prior to 30 days before the Annuity Commencement Date, you may send us your transfer request. Each transfer must be for an amount not less than that shown on the Policy Data Page. A minimum balance must remain in an Investment Division and/or the Fixed Account after a transfer is made from an Investment Division and/or the Fixed Account, as shown on the Policy Data Page. If after a transfer, the balance in that Investment Division or

Fixed Account falls below the minimum, we have the right to include that amount as part of the transfer. The remaining amount will be allocated in the same proportion as the transfer request.

In addition, transfers may be made on an automatic basis in accordance with your instructions, subject to certain limitations as described below.

#### *Traditional Dollar Cost Averaging Option*

Under this option, you may specify a dollar amount to be transferred from any Investment Division to any combination of Investment Divisions and/or, if allowable, to the Fixed Account. Transfers under this option are not available from the Fixed Account. We will automatically transfer the specific dollar amount in accordance with your instructions.

In order to elect this option, the Accumulation Value must be equal to or greater than the minimum value shown on the Policy Data Page. The minimum amount that may be transferred to or from an Investment Division or, if allowable, to the Fixed Account is shown on the Policy Data Page. NYLIAC reserves the right to cancel this option if the Accumulation Value is less than the minimum amount required to elect this option.

#### *Automatic Asset Reallocation Option*

Under this option you may specify that a percentage of the Variable Accumulation Value be allocated to each Investment Division at a pre-set level. If you elect this reallocation option, we will automatically transfer your Variable Accumulation Value between Investment Divisions so that it reflects the percentages you specify or as subsequently changed by you in accordance with your instructions. In order to elect this option, the Variable Accumulation Value must be equal to or greater than the minimum value shown on the Policy Data Page. The minimum amount that must be allocated among the Investment Divisions under this option is shown on the Policy Data Page. NYLIAC reserves the right to cancel this option if the Variable Accumulation Value is less than the minimum amount required to elect this option.

Transfers under the Automatic Asset Reallocation option are not available with the Fixed Account.

You may not elect the Traditional Dollar Cost Averaging and Automatic Asset Reallocation options at the same time.

#### *Interest Sweep Option*

You may request transfers, from the Fixed Account to any combination of Investment Divisions, of interest earned on Premium Payments and Premium

Credits allocated to the Fixed Account. If you elect this option, we will automatically transfer the interest from the Fixed Account to the Investment Divisions you specify or as subsequently changed by you in accordance with your instructions.

In order to elect this option, the Fixed Account Accumulation Value must be equal to or greater than the minimum value as shown on the Policy Data Page. NYLIAC reserves the right to cancel this option if the Fixed Account Accumulation Value is less than the minimum amount required to elect this option.

The Interest Sweep option may be requested in addition to the Traditional Dollar Cost Averaging option, the Automatic Asset Reallocation option, or the DCA Advantage Account.

Transfers under the Interest Sweep Option are subject to certain limitations described on the Policy Data Page.

You may cancel the Traditional Dollar Cost Averaging option, the Automatic Asset Reallocation option, or the Interest Sweep option at any time by making a written request.

#### **5.4 Can Transfers Be Made Into The DCA Advantage Account?**

No. Transfers may not be made into the DCA Advantage Account.

#### **5.5 Can Transfers Be Made From The DCA Advantage Account Into The Fixed Account?**

No. The DCA Advantage Account Accumulation Value may not be transferred to the Fixed Account.

#### **5.6 How Do You Transfer The DCA Advantage Account Accumulation Value To The Investment Divisions?**

At the time you elect the DCA Advantage Account, or as subsequently changed by you before the expiration date, you must tell us into which Investment Division(s) you want the DCA Advantage Account Accumulation Value transferred. We will automatically transfer amounts from your DCA Advantage Account into the Investment Division(s) in proportional periodic amounts in accordance with your instructions.

In addition, you may make transfers from the DCA Advantage Account to the Investment Divisions at any time. The transfers will not interrupt the automatic transfers from the DCA Advantage Account. Transfers will be made from the DCA Advantage Account in the following sequence: first

from the DCA Advantage Account Accumulation Value attributed to the initial Premium Payment and Premium Credit, then from the DCA Advantage Account Accumulation Value attributed to subsequent Premium Payments and Premium Credits in the order received.

The amount held in the DCA Advantage Account will be completely transferred out of the DCA Advantage Account by the specified expiration date of that Account. In no event may the expiration date of the DCA Advantage Account extend beyond your Annuity Commencement Date.

The DCA Advantage Account may be requested in addition to the Interest Sweep option, the Traditional Dollar Cost Averaging option or the Automatic Asset Reallocation option.

### **5.7 Are There Limits On What You May Transfer?**

Transfers are subject to the limitations referenced in this section (Section Five) of the Policy and on the Policy Data Page.

## **SECTION SIX – PREMIUM CREDIT AND ACCUMULATION VALUE**

### **6.1 How Is The Premium Credit Allocated?**

The Premium Credit is allocated to the Allocation Alternative(s) and/or to the DCA Advantage Account in the same percentages as the Premium Payment. The Premium Credit Rate applicable to the initial Premium Payment is shown on the Policy Data Page. Subsequent Premium Payments will receive the Premium Credit Rate in effect at the time the Premium Payment is received.

### **6.2 Can The Premium Credit Be Deducted From The Accumulation Value?**

The Premium Credit will be deducted from your Policy's Accumulation Value if you elect to return your Policy under the terms of the Right to Return Policy provision on the face page of this Policy. We will also deduct any Premium Credit(s) credited within the immediately preceding twelve (12) months of the date of death. The amount deducted will be an amount equal to the Premium Credit(s) credited to

We reserve the right to apply a charge for transfers as shown on the Policy Data Page. Any transfer made on an automatic basis with the Traditional Dollar Cost Averaging, Automatic Asset Reallocation and Interest Sweep options will not be counted for purposes of determining the maximum number of transfers as specified on the Policy Data Page.

We reserve the right to limit the amount, which may be transferred to any one Investment Division.

Your right to make transfers under this Policy is subject to modification if we determine, in our sole discretion, that the exercise of that right will disadvantage or potentially hurt the rights or interest of other policyowners. Such restrictions may be applied in any manner reasonably designed to prevent any use of the transfer right, which is considered to be to the actual or potential disadvantage of other policyowners.

your Policy without regard to the Premium Credit's current value.

### **6.3 How Is The Accumulation Value Calculated?**

On any day, at or before the Annuity Commencement Date, the Accumulation Value of this Policy is equal to the sum of the Fixed Account Accumulation Value, the Variable Accumulation Value and the DCA Advantage Account Accumulation Value for any Valuation Period.

The Fixed Account Accumulation Value, the DCA Advantage Account Accumulation Value and death benefits that are available under this Policy are not less than the minimum benefits required by law.

The instances in which Surrender Charges will be assessed, and the amount of those charges are described in Section Four herein. When you ask us, we will tell you how much Accumulation Value there is in your Policy.

## **SECTION SEVEN - SEPARATE ACCOUNT**

### **7.1 How Is The Separate Account Established And Maintained?**

We have established and maintained the Separate Account under the laws of the State of Delaware. Any realized or unrealized income, net gains, and losses from the assets of the Separate Account are

credited or charged to it without regard to our other income.

### **7.2 How Are The Separate Account Assets Invested?**

The Separate Account invests its assets in shares of the Eligible Portfolios of the Fund. Fund shares are

purchased, redeemed, and valued on behalf of the Separate Account. The Separate Account is divided into Investment Divisions. We reserve the right to add or remove any Investment Division of the Separate Account.

### **7.3 To Whom Do The Assets In The Separate Account Belong?**

The assets in the Separate Account are our property. The Separate Account assets equal the reserves and other Policy liabilities of the Separate Account. Those assets will not be chargeable with liabilities arising out of any other business we conduct. We reserve the right, when not prohibited by the laws of the state in which this Policy is issued, to transfer assets of an Investment Division, in excess of the reserves and other Policy liabilities with respect to that Investment Division, to another Investment Division or to our General Account.

### **7.4 How Will The Assets Of The Separate Account Be Valued?**

We will determine the value of the assets in the Separate Account on each Business Day. The assets of the Separate Account will be valued at fair market value, as determined in accordance with a method of valuation that we establish in good faith. However, it may happen that the New York Stock Exchange is closed for other than usual weekends or holidays, or the Securities and Exchange Commission restricts trading or determines that an emergency exists. If so, it may not be practical for us to determine the investment experience of the Separate Account. In that case, we may defer transfers among the Allocation Alternatives and the DCA Advantage Account.

### **7.5 Can We Transfer Assets Of The Separate Account To Another Separate Account?**

Yes. We reserve the right, when not prohibited by the laws of the state in which this Policy is issued, to transfer assets of the Separate Account, which we determine to be associated with the class of policies to which this Policy belongs, to another Separate Account. If this type of transfer is made, the term "Separate Account" as used in this Policy, will then mean the Separate Account to which the assets were transferred.

### **7.6 What Other Rights Do We Have?**

We also reserve the right, when not prohibited by the laws of the state in which this Policy is issued, to:

a) manage the Separate Account under the direction of a committee at any time;

b) de-register the Separate Account under the Investment Company Act of 1940;

c) combine the Separate Account with one or more other Separate Accounts; and

d) restrict or eliminate any of the voting rights of Owners or other persons who have voting rights as to the Separate Account as permitted by law.

### **7.7 Can A Change In The Objective Of The Fund Be Made?**

Yes. When required by law or regulation, an objective of the Fund can be changed. The objective of the Fund will not be changed unless approved by the appropriate insurance official of the State of Delaware or deemed approved in accordance with such law or regulation. If so required, the request to obtain such approval will be filed with the insurance official of the state or the district in which this Policy is issued.

### **7.8 If The Assets In The Separate Account Belong To Us, What Do Your Premium Payments Purchase?**

Your Premium Payments and Premium Credits that are allocated or transferred to the Investment Divisions will be applied to purchase Accumulation Units in those Investment Divisions.

### **7.9 How Is The Number Of Accumulation Units Determined?**

That portion of each Premium Payment and Premium Credit allocated or transferred to a designated Investment Division of the Separate Account is credited to this Policy in the form of Accumulation Units. The number of Accumulation Units credited to this Policy is determined by dividing the amount allocated or transferred to each Investment Division by the Accumulation Unit value for that Investment Division for the Valuation Period during which the Premium Payment, Premium Credit, or transfer request and all required documentation is received.

That portion of each Partial Withdrawal, Surrender Charge, Policy Service Charge, additional fees and charges (including rider charges) or transfer that is made from a designated Investment Division of the Separate Account is deducted from this Policy in the form of Accumulation Units. The number of Accumulation Units deducted from this Policy is determined by dividing the amount withdrawn or transferred from each Investment Division by the Accumulation Units' value for that Investment Division for the Valuation Period.

The value of an Accumulation Unit will vary in accordance with the investment experience of the Eligible Portfolios in which the Investment Divisions invest. The number of Accumulation Units in a Policy will not, however, change as a result of any fluctuations in the value of an Accumulation Unit.

#### **7.10 How Is The Value Of An Accumulation Unit Determined?**

The value of an Accumulation Unit on any Business Day is determined by multiplying the value of that unit on the immediately preceding Business Day by the net investment factor for the Valuation Period.

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of the Separate Account for the Valuation Period is determined as described on the Policy Data Page.

The net investment factor may be greater or less than one. Therefore, the Accumulation Unit value may increase or decrease.

The net asset value of a Fund share held in the Separate Account reflects a fee paid to an investment advisor for investment advisory services provided.

## **SECTION EIGHT – FIXED ACCOUNT**

### **8.1 How Are The Fixed Account Assets Invested?**

Premium Payments, Premium Credits and, if allowable, transfer amounts allocated to the Fixed Account and interest earned thereon are held in NYLIAC's General Account. NYLIAC invests the assets of the General Account in accordance with applicable law governing the investments of insurance company General Accounts. NYLIAC's General Account assets are all of its assets other than those allocated to the Separate Account. NYLIAC's General Account assets support all of its liabilities except Separate Account liabilities.

### **8.2 How Is The Fixed Account Valued?**

Premium Payments, Premium Credits and, if allowable, transfer amounts allocated to the Fixed Account are credited with interest at an interest rate we set from time to time. We will set an interest rate in advance at least once each year. We credit interest on a daily basis. The rate credited will never be less than the guaranteed minimum interest rate for the Fixed Account described on the Policy Data Page.

The applicable interest rate will be credited as of the Business Day we receive the Premium Payment or transfer request. A Premium Payment or transfer amount allocated to the Fixed Account will receive the rate in effect for the period during which the allocation is made, until the first anniversary of the Premium Payment or transfer. Thereafter, the rate

applied to those amounts will change on the anniversary of each Premium Payment or transfer request to the Fixed Account. The new rate will be the rate we declare, and is in effect on the anniversary of the Premium Payment or transfer request to the Fixed Account.

The amount in the Fixed Account is equal to the sum of Premium Payments, Premium Credits and, if allowable, transfer amounts allocated to the Fixed Account, plus interest credited on those Premium Payments, Premium Credits and transfer amounts less any Partial Withdrawals and transfers from the Fixed Account, and less any Surrender Charges, Policy Service Charges and/or additional fees and charges (including rider charges) assessed from the Fixed Account.

The minimum Premium Payment that may be allocated to the Fixed Account is shown on the Policy Data Page.

The Fixed Account Accumulation Value will never be less than the Fixed Account portion of the Nonforfeiture Value.

### **8.3 May The Corporation Limit or Refuse Premium Payments To The Fixed Account?**

Yes. We reserve the right to limit or refuse allocation of Premium Payments to the Fixed Account.

## **SECTION NINE - DCA ADVANTAGE ACCOUNT**

### **9.1 How Are The DCA Advantage Account Assets Invested?**

Premium Payments and any Premium Credits allocated to the DCA Advantage Account and interest earned thereon are held in NYLIAC's  
**208-192**

General Account. NYLIAC invests the assets of the General Account in accordance with applicable law governing the investments of insurance company General Accounts. NYLIAC's General Account assets are all of its assets other than those allocated

to the Separate Account. NYLIAC's General Account assets support all of its liabilities except Separate Account liabilities.

### **9.2 How Is The DCA Advantage Account Valued?**

Under the DCA Advantage Account, we will set interest rates in advance for each date on which Premium Payments may be received for allocation to the DCA Advantage Account. We credit interest on a daily basis. The rate credited will never be less than the guaranteed minimum interest rate for the DCA Advantage Account described on the Policy Data Page.

The amount in the DCA Advantage Account is equal to the sum of the Premium Payments and Premium Credits allocated to the DCA Advantage Account, plus interest credited on those Premium Payments and Premium Credits, less transfers and any Partial Withdrawals from the DCA Advantage Account, and less any Surrender Charges, Policy Service Charges

and/or additional fees and charges (including rider charges) assessed from the DCA Advantage Account.

The portion of the Premium Payments and Premium Credits allocated to the DCA Advantage Account will receive the applicable interest rate as of the Payment Date. Interest rates for subsequent Premium Payments and Premium Credits allocated to the DCA Advantage Account may be different from the rate applied to the initial Premium Payment and Premium Credit.

The minimum Premium Payment that may be allocated to the DCA Advantage Account is shown on the Policy Data Page.

The DCA Advantage Account Accumulation Value will never be less than the DCA Advantage Account portion of the Nonforfeiture Value.

## **SECTION TEN - GENERAL PROVISIONS**

### **10.1 What Constitutes The Entire Contract?**

This entire contract consists of this Policy, any attached riders, endorsements, and a copy of the application, if attached. Only our Chairman, President, Secretary, or one of our Executive Officers may change the Policy, when not prohibited by the laws of the state in which this Policy is issued, and then only in writing. No change will be made in the contract unless you agree. No Registered Representative is authorized to change this contract or waive any provisions of this contract.

### **10.2 How Important Is The Information You Provided For This Policy?**

In issuing this Policy, we have relied on the information you provided. If you signed an application, such information includes statements made in the application. All such statements are deemed to be representations and not warranties. We assume these statements are true and complete to the best of the knowledge and belief of those who made them. No such statement will be used by us to contest this Policy unless that statement is a material misrepresentation.

### **10.3 Will We Be Able To Contest This Policy?**

We will not contest this Policy after the Policy has been in force, while you are living, for two (2) years from the Issue Date. If no application was signed, this Policy will not be contested on the basis of any information that would generally be contained in an application.

### **10.4 How Are The Dates Referred To In This Policy Measured?**

Policy Years, months, and anniversaries are measured from the Policy Date. Payment Years are measured from the Payment Date.

### **10.5 How Is A Person's Age Calculated For The Purpose Of This Policy?**

In this Policy when we refer to a person's Age on any date, we mean his or her Age attained at his or her last birthday.

### **10.6 What Happens If In This Policy A Person's Age Or Sex Is Stated Incorrectly?**

If a date on the Policy Data Page is based on an Age that is not correct, we may change the date to reflect the correct Age. If the Age or sex of the Annuitant, shown on the Policy Data Page, is not correct as stated, any amount payable under this Policy will be adjusted to what the premiums paid would have purchased at the correct Age and sex. If payments were made based on the incorrect Age or sex, we will increase or reduce a later payment or payments to adjust for the error. Any adjustment will include interest, at three percent (3.0%) per year, from the date of the incorrect payment to the date the adjustment is made.

### **10.7 May You Assign Or Transfer This Policy?**

During your lifetime, you may assign or transfer your interest in this Policy (non-Qualified Plan policies

only). If you do this, your interest, and the interest of any Beneficiary, is subject to that of the assignee. As Owner, you retain any rights of ownership that have not been assigned or transferred.

#### **10.8 How Do You Assign This Policy?**

You must provide us with a copy of any assignment of this Policy. We will not be responsible for the validity of any assignment. Unless otherwise specified by the Owner, any assignment we record will take effect as of the date you signed the notice, subject to any payment we made or other action we took before receiving the notice.

#### **10.9 May The Assignee Change The Owner, Annuitant, Or Beneficiary?**

No. The assignee may not change the Owner, Annuitant, or Beneficiary. The assignee also may not elect an alternate Income Payment option. Any amount payable to the assignee will be made in a single sum.

#### **10.10 Are The Payments Made Under The Terms Of This Policy Protected Against Creditors?**

Except as stated in Section 10.7, payments we make under this Policy are, to the extent the law permits, exempt from the claims, attachments, or levies of any creditors.

#### **10.11 How Should Premium Payments For This Policy Be Made?**

Any Premium Payments made to us by check or money order must be payable to New York Life Insurance and Annuity Corporation or NYLIAC. When asked, we will give you a receipt, signed by our Registered Representative, for any premium paid to us.

#### **10.12 How Is The Guaranteed Accumulation Value Calculated For This Policy?**

The guaranteed Accumulation Value of the Fixed Account and of the DCA Advantage Account in this Policy are based on interest credited at an annual effective rate. This guaranteed rate is shown on the Policy Data Page. The Fixed Account Accumulation Value and the DCA Advantage Account Accumulation Value will never be less than the Nonforfeiture Value.

#### **10.13 Is This Policy Subject To Conformity With Any Law?**

Yes. This Policy is subject to all laws that apply. Any paid-up annuity, cash surrender or death benefits available under this Policy are not less than the minimum benefits required by any regulation or statute of the state in which this Policy is issued.

#### **10.14 Are There Any Dividends Payable Under This Policy?**

No. This is a non-participating Policy. Therefore, no dividends are payable.

**NEW YORK LIFE INSURANCE  
AND ANNUITY CORPORATION**

Home Office – [200 Continental Drive, Suite 306  
Newark, Delaware 19713]

Executive Office – [51 Madison Avenue  
New York, NY 10010]

A Stock Company Incorporated in Delaware.

**Flexible Premium Deferred Variable Annuity**

Periodic Income Payments Begin On The Annuity  
Commencement Date. Premiums May Be Paid  
While You Are Living, As Defined In This Policy.

**The Accumulation Value May Increase Or  
Decrease Based On The Investment Experience  
Of The Separate Account.**

**Accumulation Values Based On The  
Performance Of The Separate Account Are  
Variable And Are Not Guaranteed As To Dollar  
Amount.**

This Policy Is Non-Participating.



Annuities

APPLICATION FOR DEFERRED VARIABLE ANNUITIES TO:
New York Life Insurance and Annuity Corporation (NYLIAC) (A Delaware Corporation)

Executive Office: [51 Madison Avenue, New York, NY 10010] Home Office: [200 Continental Drive, Suite 306, Newark, DE 19713]

Please print or type

1. PRODUCT SELECTION (Choose ONE annuity product below. All products may not be available in all jurisdictions.)

New York Life Extra Credit Variable Annuity (ECVA) New York Life Smart Value Variable Annuity (SVVA)

FOR ECVA or SVVA ONLY, you MUST check one box below for the M&E charge option.

M&E Charge based on: Accumulation Value Adjusted Premium\*

\*Note: TSA Loans are not available if you elect the M&E charge based on Adjusted Premium.

New York Life Flexible Premium Variable Annuity (FPVA) New York Life Access Variable Annuity (AVA)\*\*

\*\*TSA Loans not available for this product.

Annuity Commencement at Age [90] for all products

2. OWNER

First Name Middle Name Last Name Suffix Male Female Date of Birth (mm/dd/yyyy)

Residence: Street City State Country Zip

Telephone No. (day) Telephone No. (Evening) Social Security No. or Tax ID No. Exempt Applied for

Relationship to Annuitant Country of Citizenship U.S. Other

Joint Owner First Name Middle Name Last Name Suffix Male Female Date of Birth (mm/dd/yyyy)

Relationship to Owner Country of Citizenship U.S. Other Social Security No. or Tax ID No. Exempt Applied for

3. ANNUITANT (If same as Owner, check here. If other than Owner, complete this section.)

First Name Middle Name Last Name Suffix Male Female Date of Birth (mm/dd/yyyy)

Residence: Street City State Country Zip

Social Security No. or Tax ID No. Exempt Applied for Country of Citizenship U.S. Other

4. PREMIUM AMOUNT (If applicable, attach check payable to NYLIAC.)

A. Premium Amount

\$

B. Flexible Premium (FPVA) only. Check one box below:

- C-O-M (Submit Form 18492)
Employer Billing Arrangement (Submit Form 18483)

Scheduled Flexible Premium Amount \$

5. BENEFICIARY(IES) (Note: If more than one beneficiary is named, indicate the class and percentage for each. Each class must total 100%.)

Surviving Spouse Under Joint Spousal Ownership (For Non-Qualified plan only)

This designation is available only if (i) spouses are Joint Owners and (ii) upon the death of either spouse, the surviving spouse wants the option to continue the policy as the sole Owner and, if applicable, the Annuitant.

NOTE: When the "Surviving Spouse Under Joint Spousal Ownership" option is selected above, complete the section below only if there are contingent beneficiaries.

CLASS

Table with 4 columns: Primary/Contingent, Name, Relationship to Owner, Percentage. Multiple rows for different beneficiaries.



**9. FRAUD AND DISCLOSURE STATEMENTS FOR THE FOLLOWING JURISDICTIONS:**

**Colorado:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

**All Other Jurisdictions except Florida, Massachusetts, New Jersey, New York, Oklahoma, Oregon, Vermont and Virginia:** Any person who knowingly and with the intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. **For residents other than Pennsylvania,** the following also applies: Penalties may include imprisonment, fines, or a denial of insurance benefits if a person provides false information.

**10. SIGNATURES**

I/We agree that: (1) All answers to questions and statements in this application are true to the best of the knowledge and belief of those who made and recorded them. (2) This policy will not become effective unless it is delivered to the Owner while the Owner and the Annuitant are living. (3) Unless otherwise indicated below, the Owner of this policy is the Applicant. (4) Under penalties of perjury, the Taxpayer Identification Number(s) provided on this application are certified to be correct. (5) No Registered Representative is authorized to accept risks, make or change this application or any policy issued by the Company, or give up any of the Owner's rights or requirements. **Benefits Based on the Performance of the Separate Accounts are Variable and are not Guaranteed as to the Dollar Amount.**

Signed at \_\_\_\_\_  
(City/State)

On \_\_\_\_\_  
(MM/DD/YYYY)

\_\_\_\_\_  
▲ Owner's Signature

\_\_\_\_\_  
▲ Joint Owner's Signature (if applicable)

\_\_\_\_\_  
▲ Annuitant's Signature (if other than Owner)

\_\_\_\_\_  
▲ Applicant's Signature (if other than Owner)

\_\_\_\_\_  
Applicant's Printed Name

\_\_\_\_\_  
▲ Agent's/ Registered Rep.'s Signature

\_\_\_\_\_  
Agent's/ Registered Rep.'s Printed Name

( )  
\_\_\_\_\_  
Agent's/ Registered Rep.'s Tel. No.

\_\_\_\_\_  
Agent's/ Registered Rep.'s Code No.

\_\_\_\_\_  
State/License No.

\_\_\_\_\_  
General Office Name/No.

\_\_\_\_\_  
▲ Lic. Resident Agent Countersignature

|                            |
|----------------------------|
| "Date Received" Stamp Here |
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Annuities

[NEW YORK LIFE SMART VALUE VARIABLE ANNUITY]

ANNUITY COMMENCEMENT AT [AGE 90]

APPLICATION FOR DEFERRED VARIABLE ANNUITY TO:

New York Life Insurance and Annuity Corporation (NYLIAC) (A Delaware Corporation)

Executive Office: [51 Madison Avenue, New York, NY 10010] Home Office: [200 Continental Drive, Suite 306, Newark, DE 19713]

Please print or type

1. OWNER

Name (First, M.I., Last) Date of Birth (Month, Day, Year) Male Female Social Security or Tax ID No.

Residence Address-Street City State Zip Code

Telephone Number (day) Telephone Number (Evening) Relationship to Annuitant Citizenship

Joint Owner Name (First, M.I., Last) Relationship to Owner Date of Birth (Month, Day, Year) Male Female

Social Security or Tax ID No. Citizenship

2. ANNUITANT (If same as Owner, check here [ ] . If other than Owner, complete this section.)

Name (First, M.I., Last) Date of Birth (Month, Day, Year) Male Female Social Security or Tax ID No.

Residence Address-Street City State Zip Code

3. PREMIUM AMOUNT (If applicable, attach check payable to NYLIAC.)

\$

4. MORTALITY AND EXPENSE RISK AND ADMINISTRATIVE COSTS CHARGE (Only ONE option may be selected.)

[ ] Based on a percentage of the Accumulation Value [ ] Based on a percentage of the Adjusted Premium Payment

5. BENEFICIARY(IES) (Note: If more than one beneficiary is named, indicate the class and percentage for each. Each class must total 100%.)

[ ] Surviving Spouse Under Joint Spousal Ownership (For Non-Qualified plan only)

This designation is available only if (i) spouses are Joint Owners and (ii) upon the death of either spouse, the surviving spouse wants the option to continue the policy as the sole Owner and, if applicable, the Annuitant.

NOTE: When the "Surviving Spouse Under Joint Spousal Ownership" option is selected above, complete the section below only if there are contingent beneficiaries.

CLASS

Primary Contingent Name (First, Middle Initial, Last) Relationship to Owner Percentage

6. PLAN TYPE (Choose ONE plan and complete the appropriate section and applicable transfer/exchange form.)

[ ] Non-Qualified Is this a 1035 Exchange? [ ] Yes [ ] No What is the Cost Basis? \$

[ ] IRA [ ] SEP IRA [ ] Roth IRA [ ] SIMPLE IRA

Current Year Contribution Prior Year Contribution Transfer Amount Rollover Amount

[ ] Inherited IRA Transfer Amount

**7. RIDERS** These riders provide benefits for a charge that may vary. Refer to the terms described in the Prospectus and in the rider(s) that will be attached to your Policy, if selected here. All riders may not be available for all jurisdictions.

(ADBR) Annual Death Benefit Reset  (IPP) Investment Protection Plan  (EBB) Enhanced Beneficiary Benefit

**8. REPLACEMENT INFORMATION (If you answer "Yes" to either question, submit required replacement forms.)**

Do you own any existing life insurance or annuity policies?  Yes  No  
Is this a replacement of a life insurance or annuity policy?  Yes  No (If you answer "Yes" to this question, please also complete existing policy information in this section below.)

|              |                  |                                 |
|--------------|------------------|---------------------------------|
| Company Name | Policy Number(s) | Estimated Policy Value(s)<br>\$ |
| Company Name | Policy Number(s) | Estimated Policy Value(s)<br>\$ |

**9. ADDITIONAL INFORMATION:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**10. FRAUD AND DISCLOSURE STATEMENTS FOR THE FOLLOWING JURISDICTIONS:**

**Colorado:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

**All Other Jurisdictions except Florida, Massachusetts, New Jersey, New York, Oklahoma, Oregon, Vermont and Virginia:** Any person who knowingly and with the intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. **For residents other than Pennsylvania,** the following also applies: Penalties may include imprisonment, fines, or a denial of insurance benefits if a person provides false information.

**11. SIGNATURES**

I/We agree that: (1) All answers to questions and statements in this application are true to the best of the knowledge and belief of those who made and recorded them. (2) This policy will not become effective unless it is delivered to the Owner while the Owner and the Annuitant are living. (3) Unless otherwise indicated below, the Owner of this policy is the Applicant. (4) Under penalties of perjury, the Taxpayer Identification Number(s) provided on this application are certified to be correct. (5) No Registered Representative\* is authorized to accept risks, make or change this application or any policy issued by the Company, or give up any of the Owner's rights or requirements. **Benefits Based on the Performance of the Separate Accounts are Variable and are not Guaranteed as to the Dollar Amount.**

Signed at (City/State) \_\_\_\_\_ Dated On \_\_\_\_\_

▲ Owner's Signature \_\_\_\_\_

▲ Joint Owner's Signature (if applicable) \_\_\_\_\_

▲ Annuitant's Signature (if other than Owner)

▲ Applicant's Signature (if other than Owner)

Applicant's Printed Name

▲ Registered Rep.'s\* Signature

Registered Rep.'s\* Printed Name

( )

Registered Rep.'s\* Tel. No.

Registered Rep.'s\* Code No.

Registered Rep.'s\* State/License No.

Broker/Dealer Name & Address

( )

Broker/Dealer Telephone No.

\* A Registered Representative is also an insurance agent.

**Producer's Statement. For Registered Representative\* Use Only.**

(Not part of application)

Is Owner a U.S. Citizen? \_\_\_ Yes \_\_\_ No

If No, check the appropriate box: \_\_\_ Resident Alien \_\_\_ Non-Resident Alien \_\_\_ Other \_\_\_\_\_

Is this a replacement of a life insurance or annuity policy? \_\_\_ Yes \_\_\_ No

Does the applicant own any existing life insurance or annuity policies? \_\_\_ Yes \_\_\_ No

If you have answered yes to either question, please submit the required replacement forms if applicable.

Is the Applicant (or Owner, if other than Applicant) an active duty Service Member of the United States Armed Forces or a dependent family member of a Service Member? \_\_\_ Yes \_\_\_ No

If yes, submit a copy of the completed Notice to Military Service Members Form provided to the Service Member or dependent family member.

Is the Owner of the Policy a Trust? \_\_\_ Yes \_\_\_ No

If yes, please attach pages of the Trust Agreement, including a copy of the title page, signature page, and any applicable trustee designation pages and amendments to the Trust.

I have used only company-approved sales material in connection with this application; and copies of all sales material used were left with the applicant.

Agent's/Representative's Signature \_\_\_\_\_ Date \_\_\_\_\_



Annuities

[NEW YORK LIFE EXTRA CREDIT VARIABLE ANNUITY]

ANNUITY COMMENCEMENT AT [AGE 90]

APPLICATION FOR DEFERRED VARIABLE ANNUITY TO:

New York Life Insurance and Annuity Corporation (NYLIAC) (A Delaware Corporation)

Executive Office: [51 Madison Avenue, New York, NY 10010] Home Office: [200 Continental Drive, Suite 306, Newark, DE 19713]

Please print or type

1. OWNER

Name (First, M.I., Last) Date of Birth (Month, Day, Year) Male Female Social Security or Tax ID No.

Residence Address-Street City State Zip Code

Telephone Number (day) Telephone Number (Evening) Relationship to Annuitant Citizenship

Joint Owner Name (First, M.I., Last) Relationship to Owner Date of Birth (Month, Day, Year) Male Female

Social Security or Tax ID No. Citizenship

2. ANNUITANT (If same as Owner, check here. If other than Owner, complete this section.)

Name (First, M.I., Last) Date of Birth (Month, Day, Year) Male Female Social Security or Tax ID No.

Residence Address-Street City State Zip Code

3. PREMIUM AMOUNT (If applicable, attach check payable to NYLIAC.)

\$

4. MORTALITY AND EXPENSE RISK AND ADMINISTRATIVE COSTS CHARGE (Only ONE option may be selected.)

Based on a percentage of the Accumulation Value Based on a percentage of the Adjusted Premium Payment

5. BENEFICIARY(IES) (Note: If more than one beneficiary is named, indicate the class and percentage for each. Each class must total 100%.)

Surviving Spouse Under Joint Spousal Ownership (For Non-Qualified plan only)

This designation is available only if (i) spouses are Joint Owners and (ii) upon the death of either spouse, the surviving spouse wants the option to continue the policy as the sole Owner and, if applicable, the Annuitant.

NOTE: When the "Surviving Spouse Under Joint Spousal Ownership" option is selected above, complete the section below only if there are contingent beneficiaries.

CLASS

Primary Contingent Name (First, Middle Initial, Last) Relationship to Owner Percentage

6. PLAN TYPE (Choose ONE plan and complete the appropriate section and applicable transfer/exchange form.)

[ Non-Qualified ] Is this a 1035 Exchange? Yes No What is the Cost Basis? \$

[ IRA SEP IRA Roth IRA SIMPLE IRA ]

Current Year Contribution Prior Year Contribution Transfer Amount Rollover Amount

[ Inherited IRA ] Transfer Amount \$

**7. RIDERS** These riders provide benefits for a charge that may vary. Refer to the terms described in the Prospectus and in the rider(s) that will be attached to your Policy, if selected here. All riders may not be available for all jurisdictions.

**(ADBR)** Annual Death Benefit Reset     **(IPP)** Investment Protection Plan     **(EBB)** Enhanced Beneficiary Benefit

**8. REPLACEMENT INFORMATION (If you answer "Yes" to either question, submit required replacement forms.)**

Do you own any existing life insurance or annuity policies?     Yes     No  
Is this a replacement of a life insurance or annuity policy?     Yes     No **(If you answer "Yes" to this question, please also complete existing policy information in this section below.)**

|              |                  |                                 |
|--------------|------------------|---------------------------------|
| Company Name | Policy Number(s) | Estimated Policy Value(s)<br>\$ |
| Company Name | Policy Number(s) | Estimated Policy Value(s)<br>\$ |

**9. ADDITIONAL INFORMATION:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**10. FRAUD AND DISCLOSURE STATEMENTS FOR THE FOLLOWING JURISDICTIONS:**

**Colorado:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

**All Other Jurisdictions except Florida, Massachusetts, New Jersey, New York, Oklahoma, Oregon, Vermont and Virginia:** Any person who knowingly and with the intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. **For residents other than Pennsylvania,** the following also applies: Penalties may include imprisonment, fines, or a denial of insurance benefits if a person provides false information.

**11. SIGNATURES**

I/We agree that: (1) All answers to questions and statements in this application are true to the best of the knowledge and belief of those who made and recorded them. (2) This policy will not become effective unless it is delivered to the Owner while the Owner and the Annuitant are living. (3) Unless otherwise indicated below, the Owner of this policy is the Applicant. (4) Under penalties of perjury, the Taxpayer Identification Number(s) provided on this application are certified to be correct. (5) No Registered Representative is authorized to accept risks, make or change this application or any policy issued by the Company, or give up any of the Owner's rights or requirements. **Benefits Based on the Performance of the Separate Accounts are Variable and are not Guaranteed as to the Dollar Amount.**

Signed at (City/State) \_\_\_\_\_ Dated On \_\_\_\_\_

▲ Owner's Signature

▲ Joint Owner's Signature (if applicable)

▲ Annuitant's Signature (if other than Owner)

▲ Applicant's Signature (if other than Owner)

Applicant's Printed Name

▲ Registered Rep.'s\* Signature

Registered Rep.'s\* Printed Name

( )

Registered Rep.'s\* Tel. No.

Registered Rep.'s\* Code No.

Registered Rep.'s\* State/License No.

Broker/Dealer Name & Address

( )

Broker/Dealer Telephone No.

\* A Registered Representative is also an insurance agent.

**Producer's Statement. For Registered Representative\* Use Only.**

(Not part of application)

Is Owner a U.S. Citizen?  Yes  No

If No, check the appropriate box:  Resident Alien  Non-Resident Alien  Other \_\_\_\_\_

Is this a replacement of a life insurance or annuity policy?  Yes  No

Does the applicant own any existing life insurance or annuity policies?  Yes  No

If you have answered yes to either question, please submit the required replacement forms if applicable.

Is the Applicant (or Owner, if other than Applicant) an active duty Service Member of the United States Armed Forces or a dependent family member of a Service Member?  Yes  No

If yes, submit a copy of the completed Notice to Military Service Members Form provided to the Service Member or dependent family member.

Is the Owner of the Policy a Trust?  Yes  No

If yes, please attach pages of the Trust Agreement, including a copy of the title page, signature page, and any applicable trustee designation pages and amendments to the Trust.

I have used only company-approved sales material in connection with this application; and copies of all sales material used were left with the applicant.

Agent's/Representative's Signature \_\_\_\_\_

Date \_\_\_\_\_



Annuities

[NEW YORK LIFE ACCESS VARIABLE ANNUITY]

ANNUITY COMMENCEMENT AT [AGE 90]

APPLICATION FOR DEFERRED VARIABLE ANNUITY TO:

New York Life Insurance and Annuity Corporation (NYLIAC) (A Delaware Corporation)

Executive Office: [51 Madison Avenue, New York, NY 10010] Home Office: [200 Continental Drive, Suite 306, Newark, DE 19713]

Please print or type

1. OWNER

Name (First, M.I., Last) Date of Birth (Month, Day, Year) Male Female Social Security or Tax ID No.

Residence Address-Street City State Zip Code

Telephone Number (day) Telephone Number (Evening) Relationship to Annuitant Citizenship

Joint Owner Name (First, M.I., Last) Relationship to Owner Date of Birth (Month, Day, Year) Male Female

Social Security or Tax ID No. Citizenship

2. ANNUITANT (If same as Owner, check here [ ] . If other than Owner, complete this section.)

Name (First, M.I., Last) Date of Birth (Month, Day, Year) Male Female Social Security or Tax ID No.

Residence Address-Street City State Zip Code

3. PREMIUM AMOUNT (If applicable, attach check payable to NYLIAC.)

\$ \_\_\_\_\_

4. BENEFICIARY(IES) (Note: If more than one beneficiary is named, indicate the class and percentage for each. Each class must total 100%.)

[ ] Surviving Spouse Under Joint Spousal Ownership (For Non-Qualified plan only)

This designation is available only if (i) spouses are Joint Owners and (ii) upon the death of either spouse, the surviving spouse wants the option to continue the policy as the sole Owner and, if applicable, the Annuitant.

NOTE: When the "Surviving Spouse Under Joint Spousal Ownership" option is selected above, complete the section below only if there are contingent beneficiaries.

CLASS

Primary Contingent Name (First, Middle Initial, Last) Relationship to Owner Percentage

5. PLAN TYPE (Choose ONE plan and complete the appropriate section and applicable transfer/exchange form.)

[ ] Non-Qualified Is this a 1035 Exchange? [ ] Yes [ ] No What is the Cost Basis? \$ \_\_\_\_\_

[ ] IRA [ ] SEP IRA [ ] Roth IRA [ ] SIMPLE IRA ]

Current Year Contribution Prior Year Contribution Transfer Amount Rollover Amount

[ ] Inherited IRA Transfer Amount \$ \_\_\_\_\_

6. RIDERS These riders provide benefits for a charge that may vary. Refer to the terms described in the Prospectus and in the rider(s) that will be attached to your Policy, if selected here. All riders may not be available for all jurisdictions.

[ ] (ADBR) Annual Death Benefit Reset [ ] (EBB) Enhanced Beneficiary Benefit

**7. REPLACEMENT INFORMATION (If you answer "Yes" to either question, submit required replacement forms.)**

Do you own any existing life insurance or annuity policies?  Yes  No

Is this a replacement of a life insurance or annuity policy?  Yes  No (If you answer "Yes" to this question, please also complete existing policy information in this section below.)

|              |                  |                                 |
|--------------|------------------|---------------------------------|
| Company Name | Policy Number(s) | Estimated Policy Value(s)<br>\$ |
| Company Name | Policy Number(s) | Estimated Policy Value(s)<br>\$ |

**8. ADDITIONAL INFORMATION:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**9. FRAUD AND DISCLOSURE STATEMENTS FOR THE FOLLOWING JURISDICTIONS:**

**Colorado:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

**All Other Jurisdictions except Florida, Massachusetts, New Jersey, New York, Oklahoma, Oregon, Vermont and Virginia:** Any person who knowingly and with the intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties. **For residents other than Pennsylvania,** the following also applies: Penalties may include imprisonment, fines, or a denial of insurance benefits if a person provides false information.

**10. SIGNATURES**

I/We agree that: (1) All answers to questions and statements in this application are true to the best of the knowledge and belief of those who made and recorded them. (2) This policy will not become effective unless it is delivered to the Owner while the Owner and the Annuitant are living. (3) Unless otherwise indicated below, the Owner of this policy is the Applicant. (4) Under penalties of perjury, the Taxpayer Identification Number(s) provided on this application are certified to be correct. (5) No Registered Representative is authorized to accept risks, make or change this application or any policy issued by the Company, or give up any of the Owner's rights or requirements. **Benefits Based on the Performance of the Separate Accounts are Variable and are not Guaranteed as to the Dollar Amount.**

Signed at (City/State) \_\_\_\_\_ Dated On \_\_\_\_\_

▲ Owner's Signature \_\_\_\_\_ ▲ Joint Owner's Signature (if applicable) \_\_\_\_\_

▲ Annuitant's Signature (if other than Owner) \_\_\_\_\_ ▲ Applicant's Signature (if other than Owner) \_\_\_\_\_ Applicant's Printed Name \_\_\_\_\_

▲ Registered Rep.'s\* Signature \_\_\_\_\_ Registered Rep.'s\* Printed Name \_\_\_\_\_

( ) \_\_\_\_\_  
Registered Rep.'s\* Tel. No. \_\_\_\_\_ Registered Rep.'s\* Code No. \_\_\_\_\_ Registered Rep.'s\* State/License No. \_\_\_\_\_

\_\_\_\_\_  
Broker/Dealer Name & Address \_\_\_\_\_ ( ) \_\_\_\_\_  
Broker/Dealer Telephone No. \_\_\_\_\_

\* A Registered Representative is also an insurance agent.

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**Producer's Statement. For Registered Representative\* Use Only.**

(Not part of application)

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Is Owner a U.S. Citizen?  Yes  No

If No, check the appropriate box:  Resident Alien  Non-Resident Alien  Other \_\_\_\_\_

Is this a replacement of a life insurance or annuity policy?  Yes  No

Does the applicant own any existing life insurance or annuity policies?  Yes  No

If you have answered yes to either question, please submit the required replacement forms if applicable.

Is the Applicant (or Owner, if other than Applicant) an active duty Service Member of the United States Armed Forces or a dependent family member of a Service Member?  Yes  No

If yes, submit a copy of the completed Notice to Military Service Members Form provided to the Service Member or dependent family member.

Is the Owner of the Policy a Trust?  Yes  No

If yes, please attach pages of the Trust Agreement, including a copy of the title page, signature page, and any applicable trustee designation pages and amendments to the Trust.

I have used only company-approved sales material in connection with this application; and copies of all sales material used were left with the applicant.

Agent's/Representative's Signature \_\_\_\_\_ Date \_\_\_\_\_

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# RIDER

## INVESTMENT PROTECTION PLAN

This rider is attached to and made a part of this Policy. Capitalized terms used but not defined in this rider have the meaning set forth in this Policy.

### 1. What Benefit Does This Rider Provide?

This rider allows you to surrender the Policy and receive the greater of the Policy's Accumulation Value or the Guaranteed Amount. You are eligible to exercise this benefit beginning on the tenth (10th) Policy Anniversary after the later of the rider effective date or the rider reset effective date.

This benefit does not apply to any death benefit proceeds that may be payable under this Policy.

### 2. What Is The Guaranteed Amount and When Does This Rider Become Effective?

- (a) **At issue:** When this benefit is elected at the time of the application for the Policy, the Guaranteed Amount is equal to the initial Premium Payment and any Premium Credits and/or Breakpoint Credits, plus any additional Premium Payments received by us and any Premium Credits and/or Breakpoint Credits applied in the first Policy Year, less all IPP Proportional Withdrawals (as described below) thereafter. The rider effective date will be the Policy Date.
- (b) **For an in-force Policy:** When this benefit is elected on an in-force Policy, the Guaranteed Amount is equal to the Policy's Accumulation Value on the rider effective date less all IPP Proportional Withdrawals thereafter. The rider effective date will be the Policy Anniversary immediately following the date we receive your request for the rider.
- (c) **At reset:** When you elect to reset this benefit, the Guaranteed Amount is equal to the Policy's Accumulation Value at the next Policy Anniversary less all IPP Proportional Withdrawals thereafter. The rider reset effective date will be the Policy Anniversary immediately following the date we receive your request to reset this benefit.

### 3. What Is An IPP Proportional Withdrawal?

When you make a Partial Withdrawal from the Policy, we will reduce the Guaranteed Amount by the amount of the IPP Proportional Withdrawal. This amount is equal to the amount withdrawn from the Policy (including any amount withdrawn that may include Surrender Charges), divided by the Policy's Accumulation Value immediately preceding the withdrawal, multiplied by the Guaranteed Amount immediately preceding the withdrawal.

### 4. When Can You Receive This Benefit?

You are eligible to exercise this benefit beginning on the tenth (10th) Policy Anniversary after the later of the rider effective date or the rider reset effective date. You may also exercise this benefit on any Policy Anniversary thereafter. If you wish to exercise this benefit, you must submit a written request to us to surrender the Policy no later than ten (10) business days after the applicable Policy Anniversary. Amounts paid to you pursuant to the terms of this rider are taxable, and you may be subject to a ten percent (10%) IRS tax penalty if made before age 59½. You should consult with your tax advisor regarding your particular situation.

### 5. Can You Change The Guaranteed Amount After The Rider Effective Date?

You have the right to "reset" the Guaranteed Amount at any time, subject to the following limitations: 1) For policies issued as a non-qualified plan or a Roth IRA, the latest available reset date is ten (10) years prior to the original Annuity Commencement Date as shown on the Policy Data Page, and 2) For policies issued as a qualified plan (other than a Roth IRA) available with this rider, the Owner must be Age 65 or younger. The new Guaranteed Amount will be the Policy's Accumulation Value at the next Policy Anniversary after we receive your request. The rider reset effective date, the rider risk charge adjustment, and the new charge for the rider will also be reset on the next Policy Anniversary.

**6. Are Charges Deducted From Your Policy For This Benefit?**

A charge is deducted each Policy quarter and is determined as a percentage of the Guaranteed Amount at that time. The charge will be deducted from each Allocation Alternative and, if applicable, from each DCA Account in proportion to its percentage of the Policy's Accumulation Value on each applicable Policy quarter. The charge percentage will not change once it is set on the rider effective date unless you reset the Guaranteed Amount. If you reset the Guaranteed Amount, a new charge for the rider will apply. This charge may be more or less than the charge currently in effect. The maximum charge for this benefit is one percent (1%) annually based on the Guaranteed Amount.

**7. What Happens If Additional Premium Payments Are Made To This Policy?**

If the rider is elected at the time of the application for this Policy, only the Premium Payments received and any Premium Credits and/or Breakpoint Credits applied, during the first Policy Year will be included in the Guaranteed Amount. If the rider is elected after the Policy is in force, Premium Payments received and any Premium Credits and/or Breakpoint Credits applied, after the rider effective date will not be included in the Guaranteed Amount. If you elect to reset the Guaranteed Amount, Premium Payments received and any Premium Credits and/or Breakpoint Credits applied after the rider reset effective date will not be included in the Guaranteed Amount.

**8. What Happens If The Policy Is Surrendered Before The Benefit Becomes Exercisable?**

If you surrender the Policy before this benefit becomes exercisable, the provisions under this rider will no longer apply.

**9. Can This Benefit Be Cancelled?**

Within 30 days after delivery of your Policy and/or rider, you may return the rider to us or to the Registered Representative through whom it was purchased, with a written request for a cancellation. Upon receipt of this request, we will promptly cancel the rider and refund any charges that may have been assessed for the rider.

**10. What If I Want To Cancel This Rider After The 30-Day Review Period?**

You have the right to cancel the rider. However, we may deduct a rider risk charge adjustment from the Policy's Accumulation Value. The cancellation will be effective on the date we receive your request. The rider risk charge adjustment is determined as a percentage of the Guaranteed Amount at that time and will be deducted from each Allocation Alternative and, if applicable, from each DCA Account in proportion to its percentage of the Policy's Accumulation Value on the cancellation date.

The rider risk charge adjustment for a particular Policy will not change once it is set on the rider effective date unless you reset the Guaranteed Amount. If you reset the Guaranteed Amount, a new rider risk charge adjustment will apply. This new charge may be more or less than the charge currently in effect. The maximum rider risk charge adjustment is two percent (2%) of the Guaranteed Amount.

The rider risk charge adjustment will not apply if you surrender the Policy.

**NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**



President



Secretary

## RIDER

### ANNUAL DEATH BENEFIT RESET (ADBR)

This rider is attached to and made a part of this Policy. Capitalized terms used but not defined in this rider have the meaning set forth in this Policy or in other attached riders.

#### DEFINITIONS

**ADBR Proportional Withdrawal:** An amount equal to the amount withdrawn from this Policy (including any amount withdrawn that may include Surrender Charges), divided by this Policy's Accumulation Value immediately preceding the withdrawal, multiplied by the Reset Value immediately preceding the withdrawal.

**Adjusted Death Benefit Premium Payments:** The total dollar amount of Premium Payments made under this Policy reduced by any Adjusted Death Benefit Premium Payment Proportional Withdrawals.

**Adjusted Death Benefit Premium Payment Proportional Withdrawal:** An amount equal to the amount withdrawn from this Policy, (including any amount withdrawn that may include Surrender Charges), divided by this Policy's Accumulation Value immediately preceding the withdrawal, multiplied by the Adjusted Death Benefit Premium Payments immediately preceding the withdrawal.

**Reset Anniversary:** The anniversary occurring every year from the Policy Date until the Owner is age 80. On the first Policy Anniversary, the Policy Date, as shown on the Policy Data Page, will be used as the prior Reset Anniversary.

**Reset Value:** The Reset Value on the first Reset Anniversary is equal to the greater of:

- (a) the Accumulation Value of this Policy (less any applicable Premium Credits, if credited to this Policy within the twelve months immediately preceding death); and
- (b) the Adjusted Death Benefit Premium Payments.

The Reset Value calculated on the second and each subsequent Reset Anniversary is equal to the greater of:

- (a) this Policy's Accumulation Value on the current Reset Anniversary (less any applicable Premium Credits, if credited to this Policy within the twelve months immediately preceding death); and
- (b) the Reset Value on the prior Reset Anniversary plus any Premium Payments and any applicable Premium Credits and/or Breakpoint Credits made since the prior Reset Anniversary (less any applicable Premium Credits, if credited to the Accumulation Value within the twelve months immediately preceding death), less any ADBR Proportional Withdrawals since the prior Reset Anniversary.

#### RIDER PROVISIONS

##### 1. What Benefit Does This Rider Provide?

This rider resets and locks in the value of your death benefit at the highest Reset Value available on this Policy's Reset Anniversary.

##### 2. How Is Your Death Benefit Determined?

If you die prior to the Annuity Commencement Date, we will pay an amount as proceeds to the designated Beneficiary, as of the date we receive Proof of Death and all necessary

requirements to pay the death claim. The amount will be the greatest of:

- (a) the Accumulation Value (less any applicable Premium Credits, if credited to the Accumulation Value within the twelve months immediately preceding death);
- (b) the Adjusted Death Benefit Premium Payments; or

- (c) the Reset Value plus any additional Premium Payments made since the most recent Reset Anniversary, (not including any applicable Premium Credits, if credited to this Policy within the twelve months immediately preceding death) less any ADBR Proportional Withdrawals made since the most recent Reset Anniversary.

**3. Are Charges Deducted From This Policy For This Benefit?**

Yes. A charge will be deducted from the Accumulation Value each Policy quarter based on this Policy's Reset Value as of the last Policy Anniversary (or as of the Policy Date if within the first Policy Year). The charge will be deducted, on a pro-rata basis, from each Allocation Alternative and, if applicable, from the DCA Advantage Account. Once you have purchased this rider, the charge for this rider will not change. The maximum charge for this rider is 1.00% annually.

**4. When Does The ADBR Value Become Payable?**

The ADBR value is payable if you die, prior to the Annuity Commencement Date.

**5. Under What Circumstances Is The ADBR Value Not Payable?**

The ADBR value is not payable if the rider ends as explained in Provision 8 of this rider.

**6. What Is The Effective Date Of This Rider?**

This rider is effective as of the Policy Date.

**7. Can This Rider Be Cancelled?**

No. This rider is non-cancelable. Once elected, the provisions of this rider will remain in effect subject to the conditions in Provision 8 of this rider.

**8. When Does This Rider End?**

This rider will end on the earliest to occur of the following events:

- 1) if Income Payments begin,
- 2) if you surrender this Policy, or
- 3) if we terminate this Policy as described in the Policy's termination provision.

**NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**



President



Secretary

# RIDER

## ENHANCED BENEFICIARY BENEFIT (EBB)

This rider is attached to and made a part of this Policy. Capitalized terms used but not defined in this rider have the meaning set forth in this Policy.

### DEFINITIONS

**EBB Adjusted Premium Payments:** The total of all Premium Payments minus EBB Proportional Withdrawals.

**Gain:** Any increase in this Policy's Accumulation Value in excess of the EBB Adjusted Premium Payments as of the date we receive all necessary requirements to pay a death claim.

**EBB Proportional Withdrawal:** An amount equal to the amount withdrawn from this Policy (including any amount withdrawn that may include Surrender Charges) divided by this Policy's Accumulation Value immediately preceding the withdrawal, multiplied by the total of all EBB Adjusted Premium Payments.

### RIDER PROVISIONS

#### 1. What Benefit Does This Rider Provide?

This rider provides an Enhanced Beneficiary Benefit (EBB) that is in addition to the amount payable under the terms of this Policy if you die prior to the Annuity Commencement Date.

Under the terms of this rider, the total benefit will be the sum of a) and b) where:

- a) is either the death benefit amount as determined in the Beneficiary section of this Policy or, if you have the Annual Death Benefit Reset rider, the greatest of any death benefit amount as determined by that rider, and
- b) the EBB, if applicable, determined as set forth in Provision 2 below.

This rider does not guarantee that an EBB will become payable at death.

#### 2. How Is The EBB Determined?

The EBB is determined based on the Gain as defined above. The EBB is a percentage, as shown on the Policy Data Page, of the Gain. The benefit varies based on your Age at issue.

If you are Age 70 or younger, this percentage will not be less than forty percent (40%) and will not exceed sixty percent (60%). The percentage will be the same for the same class of policies issued during the same period.

If you are Age 71 to 75 inclusive, this percentage will not be less than twenty percent (20%) and will not exceed forty percent (40%). The percentage will be the same for the same class of policies issued during the same period.

The EBB is calculated as of the date we receive Proof of Death and all necessary requirements to pay the death claim.

#### 3. Is There a Maximum Benefit Payable Under This Rider?

Yes. The maximum EBB payable at each Age range in Provision 2 is an amount equal to the percentage, as shown on the Policy Data Page, of the EBB Adjusted Premium Payments. The maximum percentage will not exceed two hundred percent (200%).

#### 4. Are Charges Deducted From This Policy For This Benefit?

Yes. A charge will be deducted each Policy quarter based on this Policy's Accumulation Value at that time. The charge will be deducted, on a pro-rata basis, from each Allocation Alternative and, if applicable, from the DCA Advantage Account(s). The maximum charge for this benefit is one percent (1%) annually.

#### 5. When Does The EBB Become Payable?

The EBB, if any, is payable if you die prior to the Annuity Commencement Date.

**6. Under What Circumstances Is The EBB Not Payable?**

The EBB is not payable if 1) there is no Gain as described above or 2) the rider ends as explained in Provision 9 of this rider.

**7. Can This Rider Be Cancelled?**

No. This rider is non-cancelable. Once elected, the provisions of this rider will remain in effect subject to the conditions in Provision 9 of this rider.

**8. What Is The Effective Date Of This Rider?**

This rider is effective as of the Policy Date.

**9. When Does This Rider End?**

This rider will end on the earliest to occur of the following events:

- 1) if Income Payments begin,
- 2) if you surrender this Policy,
- 3) if you transfer ownership of this Policy,
- 4) if your spouse, as the sole primary Beneficiary, elects to continue this Policy upon your death, or
- 5) if we terminate this Policy as described in the Policy's termination provision.

**NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**



President



Secretary

## RIDER

### ENHANCED SPOUSAL CONTINUANCE

This rider is attached to and made part of your Policy. Capitalized terms used but not defined in this rider have the meaning set forth in this Policy.

#### 1. What Benefit Does This Rider Provide?

If your spouse is the sole primary Beneficiary and you die before the Annuity Commencement Date, your spouse may elect to continue this Policy as the new Owner. In that case, this rider provides that we will calculate and adjust the Policy's Accumulation Value to equal the sum of a) and b) where:

- a) is either the death benefit amount as determined in the Beneficiary section of this Policy or, if you have the Annual Death Benefit Reset rider, the greatest of any death benefit amount as determined by that rider, and
- b) is the Enhanced Beneficiary Benefit amount, if applicable.

All policy provisions (including any surrender charges) will continue as if your spouse had purchased the Policy on the original Policy Date.

#### 2. Can This Rider Be Used More Than Once?

No. This rider can be used only once regardless of any change of ownership.

#### 3. When Are The Spousal Continuance Values Determined?

The Spousal Continuance Values will be calculated, as described above, on the date we receive Proof of Death and all necessary requirements.

#### 4. Are Charges Deducted From Your Policy For This Benefit?

No. Charges are not deducted from your Policy for this benefit.

#### 5. What is The Effective Date of This Rider?

This rider is effective as of the Policy Date.

#### 6. When Does This Rider End?

This rider will end on the earliest to occur of the following events:

- 1) if you surrender the Policy,
- 2) if Income Payments begin,
- 3) once this rider has been exercised, or
- 4) if you transfer ownership of this Policy to someone other than your spouse.

#### NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION



President



Secretary

# RIDER

## BREAKPOINT CREDIT

This rider is attached to and made a part of this Policy. Capitalized terms used but not defined in this rider have the meaning set forth in this Policy.

The provisions of this rider become effective when the total amount of all Premium Payments made to this Policy exceeds one million dollars (\$1,000,000).

### **Breakpoint Credit Rate Schedule**

1.0% of the portion of the Eligible Premium Payment(s) that exceeds \$1,000,000 up to and including \$2,500,000

plus 1.5% of the portion of the Eligible Premium Payment(s) that exceeds \$2,500,000 up to and including \$5,000,000

plus 2.0% of the portion of the Eligible Premium Payment(s) that exceeds \$5,000,000 up to and including \$10,000,000

plus 2.5% of the portion of the Eligible Premium Payment(s) that exceeds \$10,000,000

### **DEFINITIONS**

**Breakpoint Credit:** A credit amount that is applied to this Policy's Accumulation Value when we receive an Eligible Premium Payment. A Breakpoint Credit is calculated as a percentage (the "Breakpoint Credit Rate") of each portion of an Eligible Premium Payment, as shown in the Breakpoint Credit Rate Schedule above. The Breakpoint Credit is not a Premium Payment.

**Eligible Premium Payment(s):** That portion of the total amount of all Premium Payments made to this Policy in excess of one million dollars (\$1,000,000).

### **RIDER PROVISIONS**

#### **1. What Benefit Does This Rider Provide?**

This rider provides a Breakpoint Credit that is applied to this Policy's Accumulation Value.

one Breakpoint Credit Rate applies for an Eligible Premium Payment, the Breakpoint Credit is equal to the sum of the Breakpoint Credit amounts determined for each Breakpoint Credit Rate.

#### **2. When Does This Rider Become Effective?**

This rider becomes effective when the total amount of the Premium Payments made to this Policy exceeds one million dollars (\$1,000,000).

#### **4. How Are Breakpoint Credits Applied To This Policy's Accumulation Value?**

A Breakpoint Credit is applied to this Policy's Accumulation Value concurrent with an Eligible Premium Payment. Breakpoint Credits and interest credited thereon are allocated to the Allocation Alternative(s) and, if applicable, to the DCA Advantage Account based on the same percentages used to allocate the Premium Payment(s).

#### **3. How Is The Breakpoint Credit Determined?**

The Breakpoint Credit is determined by multiplying each portion of the Eligible Premium Payment amount by the applicable Breakpoint Credit Rate, in accordance with the Breakpoint Credit Rate Schedule shown above. If more than

**5. How Does A Breakpoint Credit Affect This Policy's Accumulation Value?**

*Separate Account Variable Accumulation Value:*

Any Breakpoint Credits allocated or transferred to the Investment Divisions will be applied to purchase, and will be credited as, Accumulation Units in those Investment Divisions. Accumulation Units are determined in the same manner as for a Premium Payment.

*Fixed Account Accumulation Value:*

The value of the Fixed Account includes Breakpoint Credits, and interest earned thereon, that are allocated and, if allowable, transferred to the Fixed Account. Interest is credited in the same manner as for a Premium Payment.

*DCA Advantage Account Accumulation Value:*

The value of the DCA Advantage Account includes Breakpoint Credits, and interest earned thereon. Interest is credited in the same manner as for a Premium Payment.

Breakpoint Credits that are allocated to the Fixed Account and/or the DCA Advantage Account and interest earned thereon are held in NYLIAC's General Account and invested by NYLIAC in accordance with applicable law.

**6. Can Breakpoint Credits Be Transferred?**

Breakpoint Credits are subject to the transfer terms and conditions of the Policy. If you request an Interest Sweep transfer, the interest earned on any Breakpoint Credits will be automatically transferred at the same time all other applicable interest is transferred.

**7. Can Breakpoint Credits Be Deducted From The Accumulation Value?**

Breakpoint Credits will be deducted from this Policy's Accumulation Value if you elect to return this Policy under the terms of the Right to Return Policy provision. The amount deducted will be an amount equal to the Breakpoint Credit(s) applied to this Policy without regard to the Breakpoint Credit's current value.

**8. Is There A Charge For This Rider?**

There is no charge for this rider.

**9. When Does This Rider End?**

This rider will end on the earliest to occur of the following events:

- 1) if Income Payments begin,
- 2) if you surrender this Policy, or
- 3) if you die prior to the Annuity Commencement Date.

**NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**



President



Secretary

*SERFF Tracking Number:* NYLA-125789904      *State:* Arkansas  
*Filing Company:* New York Life Insurance and Annuity      *State Tracking Number:* 40425  
Corporation  
*Company Tracking Number:* 208-190  
*TOI:* A03I Individual Annuities - Deferred Variable      *Sub-TOI:* A03I.002 Flexible Premium  
*Product Name:* VA PR-2008  
*Project Name/Number:* VA PR-2008/208-190

## **Rate Information**

Rate data does NOT apply to filing.

SERFF Tracking Number: NYLA-125789904 State: Arkansas  
Filing Company: New York Life Insurance and Annuity Corporation State Tracking Number: 40425  
Company Tracking Number: 208-190  
TOI: A03I Individual Annuities - Deferred Variable Sub-TOI: A03I.002 Flexible Premium  
Product Name: VA PR-2008  
Project Name/Number: VA PR-2008/208-190

## Supporting Document Schedules

**Review Status:**  
**Satisfied -Name:** Certification/Notice 08/25/2008  
**Comments:**  
**Attachment:**  
Cert-compliance-AR.pdf

**Review Status:**  
**Satisfied -Name:** Actuarial Memorandum - Riders 10/02/2008  
**Comments:**  
Attached are the 5 Actuarial Memo's for the 5 Riders.  
**Attachments:**  
Actuarial Memorandum-999-302 (LNB Rider).pdf  
Actuarial Memorandum-203-303 (ESC Rider).pdf  
Actuarial Memorandum-203-304 (EBB Rider).pdf  
Actuarial Memorandum-203-305 (ADBR Rider).pdf  
Actuarial Memorandum-209-311 (Breakpoint Credit Rider).pdf

**Review Status:**  
**Satisfied -Name:** Statement of Variability - Policies 10/02/2008  
**Comments:**  
Attached are the 3 SOV's for the 3 Policies.  
**Attachments:**  
SOV-208-191.pdf  
SOV-208-191.pdf  
SOV-208-192.pdf

**Review Status:**  
**Satisfied -Name:** Statement of Variability - Applications 10/02/2008  
**Comments:**  
**Attachments:**  
SOV-208-594.pdf

*SERFF Tracking Number:* NYLA-125789904      *State:* Arkansas  
*Filing Company:* New York Life Insurance and Annuity      *State Tracking Number:* 40425  
Corporation  
*Company Tracking Number:* 208-190  
*TOI:* A03I Individual Annuities - Deferred Variable      *Sub-TOI:* A03I.002 Flexible Premium  
*Product Name:* VA PR-2008  
*Project Name/Number:* VA PR-2008/208-190  
SOV-208-598.pdf  
SOV-208-599.pdf  
SOV-208-600.pdf

SERFF Tracking Number: NYLA-125789904 State: Arkansas  
Filing Company: New York Life Insurance and Annuity Corporation State Tracking Number: 40425  
Company Tracking Number: 208-190  
TOI: A03I Individual Annuities - Deferred Variable Sub-TOI: A03I.002 Flexible Premium  
Product Name: VA PR-2008  
Project Name/Number: VA PR-2008/208-190

**Review Status:**

**Satisfied -Name:** Cover Letter 10/02/2008  
**Comments:**  
**Attachment:**  
Cover Letter-AR.pdf

**Review Status:**

**Satisfied -Name:** Filing Fee 10/02/2008  
**Comments:**  
**Attachment:**  
Filing Fee Transmittal-AR.pdf

**Review Status:**

**Satisfied -Name:** Guaranty Association Act 10/02/2008  
**Comments:**  
**Attachment:**  
Guaranty Association Act.pdf

**Review Status:**

**Satisfied -Name:** Inquiry Notice 20247 10/02/2008  
**Comments:**  
**Attachment:**  
Inquiry Notice 20247(ANN)(AR).pdf

**Review Status:**

**Satisfied -Name:** Inquiry Notice 42011 10/02/2008  
**Comments:**  
**Attachment:**  
Inquiry Notice 42011(AR).pdf

**Review Status:**

**Satisfied -Name:** NAIC Transmittal 10/02/2008

*SERFF Tracking Number:* NYLA-125789904      *State:* Arkansas  
*Filing Company:* New York Life Insurance and Annuity      *State Tracking Number:* 40425  
Corporation  
*Company Tracking Number:* 208-190  
*TOI:* A03I Individual Annuities - Deferred Variable      *Sub-TOI:* A03I.002 Flexible Premium  
*Product Name:* VA PR-2008  
*Project Name/Number:* VA PR-2008/208-190

**Comments:**

**Attachment:**

NAIC Transmittal -AR.pdf

SERFF Tracking Number: NYLA-125789904 State: Arkansas  
Filing Company: New York Life Insurance and Annuity Corporation State Tracking Number: 40425  
Company Tracking Number: 208-190  
TOI: A03I Individual Annuities - Deferred Variable Sub-TOI: A03I.002 Flexible Premium  
Product Name: VA PR-2008  
Project Name/Number: VA PR-2008/208-190

**Review Status:**

**Satisfied -Name:** Response Letter

10/21/2008

**Comments:**

**Attachment:**

Response to 10.13.08 Objection.PDF

**STATE OF ARKANSAS**

**CERTIFICATION OF COMPLIANCE**

**Company:** NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

**Form Title(s):** Individual Annuities-Deferred Variable Benefit

**Form Number(s):** 208-190  
208-191  
208-192  
208-594  
208-598  
208-599  
208-600  
999-302 (11/2008)  
203-305 (11/2008)  
203-304 (11/2008)  
203-303 (11/2008)  
209-311

I certify that, to the best of my knowledge and belief, the above forms and submission comply with Arkansas Insurance Regulation 19 as well as the other laws and regulations of the State of Arkansas.



\_\_\_\_\_  
Signature

Suzanne Wolf

\_\_\_\_\_  
Name

Assistant Vice President

\_\_\_\_\_  
Title

October 2, 2008

Date



**New York Life Insurance and Annuity Corporation**

**Living Benefits Rider**

**Form Number 999-302 (11/2008)**

This rider is a Guaranteed Minimum Accumulation Value benefit that guarantees that the surrender value of the variable annuity, on the tenth and subsequent policy anniversaries after the rider effective date, will be the greater of the policy accumulation value or the Guaranteed Amount. The reserves for this rider will be determined in accordance with the Standard Valuation Law and applicable actuarial guidelines.

August 28, 2008

Date



\_\_\_\_\_  
George E. Silos, FSA, MAAA

**New York Life Insurance and Annuity Corporation**

**Enhanced Spousal Continuance Rider**

**Form Number 203-303 (11/2008)**

This rider provides for the policy's Accumulation Value to be adjusted to the greatest of the death benefit amounts plus any optional Enhanced Beneficiary Benefit amount provided by the rider. If the Annuitant's spouse is the sole primary beneficiary, upon death of the Annuitant prior to the Annuity Commencement Date, the spouse may elect to continue the policy as the new Owner. The reserves for this rider will be determined in accordance with the Standard Valuation Law and applicable actuarial guidelines.

August 28, 2008

Date



\_\_\_\_\_  
George E. Silos, FSA, MAAA

**New York Life Insurance and Annuity Corporation**

**Enhanced Beneficiary Benefit Rider**

**Form Number 203-304 (11/2008)**

This rider provides the option to enhance the death benefit of the contract. The policyholder may only elect the optional Enhanced Beneficiary Benefit (EBB) at the time of application for the policy. Benefits for this rider are determined based on the gain in the policy, and the benefits vary based on the age of the Annuitant at issue. The reserves for this rider will be determined in accordance with the Standard Valuation Law and applicable actuarial guidelines.

August 28, 2008

Date



\_\_\_\_\_  
George E. Silos, FSA, MAAA

**New York Life Insurance and Annuity Corporation**

**Annual Death Benefit Reset Rider**

**Form Number 203-305 (11/2008)**

This rider provides for an Annual Death Benefit Reset (ADBR) feature that resets and locks in the value of the death benefit at the highest policy value (Reset Value) available on the policy's Reset Anniversary, until the owner, or the Annuitant, if the owner is not the Annuitant, are age 80. At every Reset Anniversary, a comparison is made between (1) the current Accumulation Value and (2) the prior Reset Value, adding any subsequent Premium Payments and subtracting any Proportional Withdrawals, Surrender Charges on those Proportional Withdrawals and any additional fees and charges that were applied. The higher amount will be the new Reset Value. The reserves for this rider will be determined in accordance with the Standard Valuation Law and applicable actuarial guidelines.

August 28, 2008

Date



\_\_\_\_\_  
George E. Silos, FSA, MAAA

**New York Life Insurance and Annuity Corporation**

**Breakpoint Credit Rider**

**Form Number 209-311**

This rider provides for a credit amount that is applied to the policy's Accumulation Value when the total amount of all Premium Payments made to the policy exceeds one million dollars. The credit is determined by multiplying each portion of the total amount of all premium payments made in excess of one million dollars by the applicable percentage, in accordance with the Breakpoint Credit Rate Schedule shown in the rider. The reserves for this rider will be determined in accordance with the Standard Valuation Law and applicable actuarial guidelines.

August 28, 2008

Date



George E. Silos, FSA, MAAA

## New York Life Insurance and Annuity Corporation (NYLIAC)

### Statement of Variability For Individual Deferred Variable Annuity Contract Form Number: 208-191

The following comments describe the nature and scope of the variable material denoted with brackets on the Policy Cover and Data Pages. Each heading corresponds to the headings found on the Policy Cover and Policy Data Pages. When applicable, alternate text is provided. The actual Data Pages an Owner receives will reflect only the information based on that Owner's elections at application. Any use of variability shall be administered in a uniform and non-discriminatory manner and shall not result in unfair discrimination.

**Home Office/Executive Office Addresses:** To allow for flexibility in changing this information should NYLIAC's office locations change.

**Officer Signatures:** To allow for flexibility should the corporation's officers change.

**Customer Service Phone Number:** To allow for flexibility in changing the toll-free phone number.

**Marketing Name:** To allow for flexibility in changing the marketing name of this variable annuity.

**Plan:** The Plan type will vary depending on the market segment in which the policy is issued. The Alternative Contract Plan types are:

NON-QUALIFIED

IRA

ROTH IRA

INHERITED IRA

SIMPLE IRA

SEP

TSA (NON-ERISA)

To Fund a Qualified Plan ← *This will print for Keogh and Pension plans*

#### **Premium Payment:**

**Initial Premium Payment:** The Initial Premium Payment varies by market segment. For policies issued in non-qualified markets, the Minimum Initial Premium Payment is \$5,000. For policies issued in qualified markets, the Minimum Initial Premium Payment is \$4,000. The Minimum Initial Premium Payment for policies issued in the Pension/Keogh market is \$10,000. For issue ages 75 and under, Premium Payments of \$1,000,000 and above are subject to prior approval by NYLIAC. The maximum Premium Payment for issue ages 76 and over is \$1,000,000.

#### **Interest Rate:**

**Guaranteed Minimum Interest Rate – DCA Advantage Account:**

**Guaranteed Minimum Interest Rate – Fixed Account:**

The range for these rates is between and including 1% and 5%. Any change will be applicable only to new issues. The Guaranteed Minimum Interest Rate (GMIR) is guaranteed for the lifetime of the contract. GMIRs are determined by weighing several important factors. The most important among these are 1) the interest rates in effect at the time of contract issue as well as forecasted interest rates, 2) the GMIRs and interest rates offered by our competitors – primarily companies who have received ratings from the independent rating agencies similar to those received by our company, and 3) profitability.

**Nonforfeiture Rate:** The Nonforfeiture Rate is equal to the lesser of:

- a) 3.00% and;
- b) a rate that is not less than 1.00% and determined by using the six-month average of the five-year Constant Maturity Treasury Rate reported by the Federal Reserve for December through May (for

period beginning July 1) and June through November (for period beginning January 1), rounded to the nearest .05%, minus 1.25%.

- The Nonforfeiture Rate will be determined twice a year in June and December for periods beginning July 1 and January 1, respectively;
- The Nonforfeiture Rate is locked in for the life of the policy based on the rate in effect when the policy was issued.

#### **Surrender Charge Schedule:**

If the Owner requests a Partial Withdrawal during the Surrender Charge Period, a Surrender Charge may be deducted from the Policy's Accumulation Value. If the Owner is age 0-75 on the Policy Date, the percentages referenced in A and B below will be 10%. If the Owner is age 76-80 on the Policy Date, the percentages referenced in A and B below will be 50%:

"The Surrender Charge will apply only if the amount of the withdrawal exceeds the greatest of: (A) 10%/50% of the Accumulation Value as of the last Policy Anniversary (10%/50% of the Premium Payment if the withdrawal is made in the first Policy Year), less any prior Partial Withdrawals, made during the current Policy Year, that were free of Surrender Charges, or (B) 10%/50% of the current Accumulation Value, at the time of the withdrawal, less any prior Partial Withdrawals, made during the current Policy Year, that were free of Surrender Charges or (C) that portion of the current Accumulation Value, at the time of the withdrawal, that exceeds the total Premium Payments made to this Policy."

**Allocation Alternatives:** To allow for flexibility in changing the investment divisions offered by this product.

The current investment divisions offered are:

MainStay VP Balanced  
MainStay VP Bond  
MainStay VP Capital Appreciation  
MainStay VP Cash Management  
MainStay VP Common Stock  
MainStay VP Conservative Allocation Port  
MainStay VP Convertible  
MainStay VP Developing Growth  
MainStay VP Floating Rate  
MainStay VP Government  
MainStay VP Growth Allocation Portfolio  
MainStay VP High Yield Corporate Bond  
MainStay VP ICAP Select Equity Portfolio  
MainStay VP International Equity  
MainStay VP Large Cap Growth  
MainStay VP Mid-Cap Core  
MainStay VP Mid-Cap Growth  
MainStay VP Mid-Cap Value  
MainStay VP Moderate Allocation Port  
MainStay VP Moderate Growth Allocation  
MainStay VP S&P 500 Index  
MainStay VP Small-Cap Growth  
MainStay VP Total Return  
CVS Calvert Social Balanced  
Columbia Small Cap Value Fund Variable Series  
Dreyfus IP Technology Growth  
Fidelity VIP Contrafund  
Fidelity VIP Equity-Income  
Fidelity VIP Mid Cap  
Janus Aspen Series Balanced  
Janus Aspen Series Worldwide Growth  
MFS Investors Trust Series  
MFS Research Series

MFS Utilities Series  
Neuberger Berman AMT Mid Cap Growth  
Royce Micro-Cap Portfolio – Inv Cls  
Royce Small-Cap Portfolio – Inv Cls  
T. Rowe Price Equity Income Portfolio  
Van Eck Worldwide Hard Assets  
Van Kampen UIF Emerging Markets Equity  
Victory VIF Diversified Stock

**MINIMUMS:**

If the M&E fee is determined based on the Policy's Variable Accumulation Value, the following language will display:

“Transfer amount to the Fixed Account: \$500”

If the M&E fee is determined based on a percentage of the Premium Payment, this field will not display on the data page since no transfers are permitted from the Investment Divisions to the Fixed Account.

**MAXIMUMS:**

Premium Payment allowed without prior approval from NYLIAC: \$1,000,000. NYLIAC reserves the right to change this amount for new issues only. This field and associated dollar amount will display only for issue ages under age 76.

**Cumulative Premium Payments:**

If the Owner is age 76 or older, this field and the maximum cumulative premium payments of \$1,000,000 will display on the data page. If the Owner is under age 76, there is no maximum, therefore, this field will not display on the data page. However, Premium Payments of \$1,000,000 or more are subject to prior approval by NYLIAC, as discussed above.

**Age for which additional Premium Payments may be made:**

The maximum age for which we will accept an additional Premium Payment varies depending on the Owner's age on the Policy Date. If the Owner is under age 76 on the Policy Date, the maximum age for which we will accept additional Premium Payments is age 75. If the Owner is age 76 or older on the Policy Date, the maximum age for which we will accept additional Premium Payments is age 80.

**Transfers:**

If the M&E Fee is determined based on a percentage of the Premium Payment, the following language would display:

“Charge for each transfer made to or from an Investment Division and/or from the Fixed Account after the first twelve (12) transfers in a Policy Year: \$30”

“No transfers are permitted from the Investment Divisions to the Fixed Account. “

If the M&E fee is determined based on the Policy's Variable Accumulation Value, the language below would display:

“Charge for each transfer made to or from an Investment Division and/or to or from the Fixed Account after the first twelve (12) transfers in a Policy Year: \$30”

“Transfers to the Fixed Account are only permitted if no transfers were made from the Fixed Account during the past six (6) months.”

**SEPARATE ACCOUNT MORTALITY AND EXPENSE RISK AND ADMINISTRATIVE COSTS CHARGE:** This charge can be any percentage between and including 1% and 3% and is guaranteed for the life of the policy. Any changes will apply only to new issues. The Owner has the option to elect the charge either as a percentage of the Premium Payment or a percentage of the Variable Accumulation Value.

If the Owner elects to structure the charge based on a percentage of the Premium Payment, the

**following language will display:**

“A charge, equal on an annual basis to 1.55% of the Adjusted Premium Payment and the portion of the Premium Payment(s) transferred from the Fixed Account to the Investment Divisions, will be deducted from the Variable Accumulation Value each policy quarter and on the date the policy is surrendered. The Adjusted Premium Payment is defined as the total Premium Payment(s) allocated to the Investment Divisions of NYLIAC Variable Annuity Separate Account IV and the DCA Advantage Account reduced by withdrawals and applicable surrender charges in excess of any gain in the Policy. This charge will be deducted, in the form of a reduction of Accumulation Units, from each Investment Division on a pro-rata basis. This charge will not affect the value of an Accumulation Unit.

**NET INVESTMENT FACTOR:**

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of the Separate Account for the Valuation Period is determined by dividing a) by b) where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus
- 2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period; and

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division determined as of the end of the immediately preceding Valuation Period.”

**If the Owner elects to structure the charge based on a percentage of the Policy’s Accumulation Value, the alternate language provided below will display:**

“A charge, equal on an annual basis to 1.35% of the daily average Variable Accumulation Value.

**NET INVESTMENT FACTOR:**

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of NYLIAC Variable Annuity Separate Account III for the Valuation Period is determined by dividing (a) by (b) and subtracting (c) from the result, where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus
- 2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period; and

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division

determined as of the end of the immediately preceding Valuation Period; and

c) is the daily Mortality and Expense Risk and Administrative Costs Charge, which is  $1/365^{\text{th}*}$  of the annual Mortality and Expense Risk and Administrative Costs Charge shown on the Policy Data Page.

\* In a leap year this calculation is based on 366 days.”

## **RIDERS:**

Available text entries are:

- Upromise  
*This rider will automatically display only on non-qualified policies and can be exercised at the option of the Owner.*
- Living Needs Benefit  
*This rider is automatically available on all non-qualified and qualified plans and is exercisable upon the Policy Owner's option.*
- Unemployment Benefit  
*This rider is automatically available on non-qualified plans and the following qualified plans: Traditional IRA, Roth IRA, Inherited IRA, SEP IRA and SIMPLE IRA.*
- Breakpoint Credit  
*This rider is automatically available on all non-qualified and qualified plans.*
- Enhanced Beneficiary Benefit
- Investment Protection Plan
- Annual Death Benefit Reset  
*These riders are optional and will only display if elected by the applicant.*

All other bracketed items are John Doe information.

## New York Life Insurance and Annuity Corporation (NYLIAC)

### Statement of Variability For Individual Deferred Variable Annuity Contract Form Number: 208-191

The following comments describe the nature and scope of the variable material denoted with brackets on the Policy Cover and Data Pages. Each heading corresponds to the headings found on the Policy Cover and Policy Data Pages. When applicable, alternate text is provided. The actual Data Pages an Owner receives will reflect only the information based on that Owner's elections at application. Any use of variability shall be administered in a uniform and non-discriminatory manner and shall not result in unfair discrimination.

**Home Office/Executive Office Addresses:** To allow for flexibility in changing this information should NYLIAC's office locations change.

**Officer Signatures:** To allow for flexibility should the corporation's officers change.

**Customer Service Phone Number:** To allow for flexibility in changing the toll-free phone number.

**Marketing Name:** To allow for flexibility in changing the marketing name of this variable annuity.

**Plan:** The Plan type will vary depending on the market segment in which the policy is issued. The Alternative Contract Plan types are:

NON-QUALIFIED

IRA

ROTH IRA

INHERITED IRA

SIMPLE IRA

SEP

TSA (NON-ERISA)

To Fund a Qualified Plan ← *This will print for Keogh and Pension plans*

#### **Premium Payment:**

**Initial Premium Payment:** The Initial Premium Payment varies by market segment. For policies issued in non-qualified markets, the Minimum Initial Premium Payment is \$5,000. For policies issued in qualified markets, the Minimum Initial Premium Payment is \$4,000. The Minimum Initial Premium Payment for policies issued in the Pension/Keogh market is \$10,000. For issue ages 75 and under, Premium Payments of \$1,000,000 and above are subject to prior approval by NYLIAC. The maximum Premium Payment for issue ages 76 and over is \$1,000,000.

#### **Interest Rate:**

**Guaranteed Minimum Interest Rate – DCA Advantage Account:**

**Guaranteed Minimum Interest Rate – Fixed Account:**

The range for these rates is between and including 1% and 5%. Any change will be applicable only to new issues. The Guaranteed Minimum Interest Rate (GMIR) is guaranteed for the lifetime of the contract. GMIRs are determined by weighing several important factors. The most important among these are 1) the interest rates in effect at the time of contract issue as well as forecasted interest rates, 2) the GMIRs and interest rates offered by our competitors – primarily companies who have received ratings from the independent rating agencies similar to those received by our company, and 3) profitability.

**Nonforfeiture Rate:** The Nonforfeiture Rate is equal to the lesser of:

- a) 3.00% and;
- b) a rate that is not less than 1.00% and determined by using the six-month average of the five-year Constant Maturity Treasury Rate reported by the Federal Reserve for December through May (for

period beginning July 1) and June through November (for period beginning January 1), rounded to the nearest .05%, minus 1.25%.

- The Nonforfeiture Rate will be determined twice a year in June and December for periods beginning July 1 and January 1, respectively;
- The Nonforfeiture Rate is locked in for the life of the policy based on the rate in effect when the policy was issued.

#### **Surrender Charge Schedule:**

If the Owner requests a Partial Withdrawal during the Surrender Charge Period, a Surrender Charge may be deducted from the Policy's Accumulation Value. If the Owner is age 0-75 on the Policy Date, the percentages referenced in A and B below will be 10%. If the Owner is age 76-80 on the Policy Date, the percentages referenced in A and B below will be 50%:

"The Surrender Charge will apply only if the amount of the withdrawal exceeds the greatest of: (A) 10%/50% of the Accumulation Value as of the last Policy Anniversary (10%/50% of the Premium Payment if the withdrawal is made in the first Policy Year), less any prior Partial Withdrawals, made during the current Policy Year, that were free of Surrender Charges, or (B) 10%/50% of the current Accumulation Value, at the time of the withdrawal, less any prior Partial Withdrawals, made during the current Policy Year, that were free of Surrender Charges or (C) that portion of the current Accumulation Value, at the time of the withdrawal, that exceeds the total Premium Payments made to this Policy."

**Allocation Alternatives:** To allow for flexibility in changing the investment divisions offered by this product.

The current investment divisions offered are:

MainStay VP Balanced  
MainStay VP Bond  
MainStay VP Capital Appreciation  
MainStay VP Cash Management  
MainStay VP Common Stock  
MainStay VP Conservative Allocation Port  
MainStay VP Convertible  
MainStay VP Developing Growth  
MainStay VP Floating Rate  
MainStay VP Government  
MainStay VP Growth Allocation Portfolio  
MainStay VP High Yield Corporate Bond  
MainStay VP ICAP Select Equity Portfolio  
MainStay VP International Equity  
MainStay VP Large Cap Growth  
MainStay VP Mid-Cap Core  
MainStay VP Mid-Cap Growth  
MainStay VP Mid-Cap Value  
MainStay VP Moderate Allocation Port  
MainStay VP Moderate Growth Allocation  
MainStay VP S&P 500 Index  
MainStay VP Small-Cap Growth  
MainStay VP Total Return  
CVS Calvert Social Balanced  
Columbia Small Cap Value Fund Variable Series  
Dreyfus IP Technology Growth  
Fidelity VIP Contrafund  
Fidelity VIP Equity-Income  
Fidelity VIP Mid Cap  
Janus Aspen Series Balanced  
Janus Aspen Series Worldwide Growth  
MFS Investors Trust Series  
MFS Research Series

MFS Utilities Series  
Neuberger Berman AMT Mid Cap Growth  
Royce Micro-Cap Portfolio – Inv Cls  
Royce Small-Cap Portfolio – Inv Cls  
T. Rowe Price Equity Income Portfolio  
Van Eck Worldwide Hard Assets  
Van Kampen UIF Emerging Markets Equity  
Victory VIF Diversified Stock

**MINIMUMS:**

If the M&E fee is determined based on the Policy's Variable Accumulation Value, the following language will display:

“Transfer amount to the Fixed Account: \$500”

If the M&E fee is determined based on a percentage of the Premium Payment, this field will not display on the data page since no transfers are permitted from the Investment Divisions to the Fixed Account.

**MAXIMUMS:**

Premium Payment allowed without prior approval from NYLIAC: \$1,000,000. NYLIAC reserves the right to change this amount for new issues only. This field and associated dollar amount will display only for issue ages under age 76.

**Cumulative Premium Payments:**

If the Owner is age 76 or older, this field and the maximum cumulative premium payments of \$1,000,000 will display on the data page. If the Owner is under age 76, there is no maximum, therefore, this field will not display on the data page. However, Premium Payments of \$1,000,000 or more are subject to prior approval by NYLIAC, as discussed above.

**Age for which additional Premium Payments may be made:**

The maximum age for which we will accept an additional Premium Payment varies depending on the Owner's age on the Policy Date. If the Owner is under age 76 on the Policy Date, the maximum age for which we will accept additional Premium Payments is age 75. If the Owner is age 76 or older on the Policy Date, the maximum age for which we will accept additional Premium Payments is age 80.

**Transfers:**

If the M&E Fee is determined based on a percentage of the Premium Payment, the following language would display:

“Charge for each transfer made to or from an Investment Division and/or from the Fixed Account after the first twelve (12) transfers in a Policy Year: \$30”

“No transfers are permitted from the Investment Divisions to the Fixed Account. “

If the M&E fee is determined based on the Policy's Variable Accumulation Value, the language below would display:

“Charge for each transfer made to or from an Investment Division and/or to or from the Fixed Account after the first twelve (12) transfers in a Policy Year: \$30”

“Transfers to the Fixed Account are only permitted if no transfers were made from the Fixed Account during the past six (6) months.”

**SEPARATE ACCOUNT MORTALITY AND EXPENSE RISK AND ADMINISTRATIVE COSTS CHARGE:** This charge can be any percentage between and including 1% and 3% and is guaranteed for the life of the policy. Any changes will apply only to new issues. The Owner has the option to elect the charge either as a percentage of the Premium Payment or a percentage of the Variable Accumulation Value.

If the Owner elects to structure the charge based on a percentage of the Premium Payment, the

**following language will display:**

“A charge, equal on an annual basis to 1.55% of the Adjusted Premium Payment and the portion of the Premium Payment(s) transferred from the Fixed Account to the Investment Divisions, will be deducted from the Variable Accumulation Value each policy quarter and on the date the policy is surrendered. The Adjusted Premium Payment is defined as the total Premium Payment(s) allocated to the Investment Divisions of NYLIAC Variable Annuity Separate Account IV and the DCA Advantage Account reduced by withdrawals and applicable surrender charges in excess of any gain in the Policy. This charge will be deducted, in the form of a reduction of Accumulation Units, from each Investment Division on a pro-rata basis. This charge will not affect the value of an Accumulation Unit.

**NET INVESTMENT FACTOR:**

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of the Separate Account for the Valuation Period is determined by dividing a) by b) where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus
- 2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period; and

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division determined as of the end of the immediately preceding Valuation Period.”

**If the Owner elects to structure the charge based on a percentage of the Policy’s Accumulation Value, the alternate language provided below will display:**

“A charge, equal on an annual basis to 1.35% of the daily average Variable Accumulation Value.

**NET INVESTMENT FACTOR:**

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of NYLIAC Variable Annuity Separate Account III for the Valuation Period is determined by dividing (a) by (b) and subtracting (c) from the result, where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus
- 2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period; and

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division

determined as of the end of the immediately preceding Valuation Period; and

c) is the daily Mortality and Expense Risk and Administrative Costs Charge, which is  $1/365^{\text{th}*}$  of the annual Mortality and Expense Risk and Administrative Costs Charge shown on the Policy Data Page.

\* In a leap year this calculation is based on 366 days.”

## **RIDERS:**

Available text entries are:

- Upromise  
*This rider will automatically display only on non-qualified policies and can be exercised at the option of the Owner.*
- Living Needs Benefit  
*This rider is automatically available on all non-qualified and qualified plans and is exercisable upon the Policy Owner's option.*
- Unemployment Benefit  
*This rider is automatically available on non-qualified plans and the following qualified plans: Traditional IRA, Roth IRA, Inherited IRA, SEP IRA and SIMPLE IRA.*
- Breakpoint Credit  
*This rider is automatically available on all non-qualified and qualified plans.*
- Enhanced Beneficiary Benefit
- Investment Protection Plan
- Annual Death Benefit Reset  
*These riders are optional and will only display if elected by the applicant.*

All other bracketed items are John Doe information.

## New York Life Insurance and Annuity Corporation (NYLIAC)

### Statement of Variability For Individual Deferred Variable Annuity Contract Form Number: 208-192

The following comments describe the nature and scope of the variable material denoted with brackets on the Policy Cover and Data Pages. Each heading corresponds to the headings found on the Policy Cover and Policy Data Pages. When applicable, alternate text is provided. The actual Data Pages an Owner receives will reflect only the information based on that Owner's elections at application. Any use of variability shall be administered in a uniform and non-discriminatory manner and shall not result in unfair discrimination.

**Home Office/Executive Office Addresses:** To allow for flexibility in changing this information should NYLIAC's office locations change.

**Officer Signatures:** To allow for flexibility should the corporation's officers change.

**Customer Service Phone Number:** To allow for flexibility in changing the toll-free phone number.

**Marketing Name:** To allow for flexibility in changing the marketing name of this variable annuity.

**Plan:** The Plan type will vary depending on the market segment in which the policy is issued. The Alternative Contract Plan types are:

NON-QUALIFIED

IRA

ROTH IRA

INHERITED IRA

SIMPLE IRA

SEP

TSA (NON-ERISA)

To Fund a Qualified Plan ← *This will print for Keogh and Pension plans*

#### **Premium Payment:**

**Initial Premium Payment:** The Initial Premium Payment varies by market segment. For policies issued in non-qualified markets, the Minimum Initial Premium Payment is \$5,000. For policies issued in qualified markets, the Minimum Initial Premium Payment is \$4,000. The Minimum Initial Premium Payment for policies issued in the Pension/Keogh market is \$10,000. Premium payments of \$1,000,000 and above are subject to prior approval by NYLIAC.

#### **Interest Rate:**

**Guaranteed Minimum Interest Rate – DCA Advantage Account:**

**Guaranteed Minimum Interest Rate – Fixed Account:**

The range for these rates is between and including 1% and 5%. Any change will be applicable only to new issues. The Guaranteed Minimum Interest Rate (GMIR) is guaranteed for the lifetime of the contract. GMIRs are determined by weighing several important factors. The most important among these are 1) the interest rates in effect at the time of contract issue as well as forecasted interest rates, 2) the GMIRs and interest rates offered by our competitors – primarily companies who have received ratings from the independent rating agencies similar to those received by our company, and 3) profitability.

**Nonforfeiture Rate:** The Nonforfeiture Rate is equal to the lesser of:

- a) 3.00% and;
- b) a rate that is not less than 1.00% and determined by using the six-month average of the five-year Constant Maturity Treasury Rate reported by the Federal Reserve for December through May (for period beginning July 1) and June through November (for period beginning January 1), rounded to the

nearest .05%, minus 1.25%.

- The Nonforfeiture Rate will be determined twice a year in June and December for periods beginning July 1 and January 1, respectively;
- The Nonforfeiture Rate is locked in for the life of the policy based on the rate in effect when the policy was issued.

**Premium Credit Rate:**

The Premium Credit Rate may vary for each Premium Band. The range for this rate is between and including 1.0% and 10.0%.

**Current Premium Credit Rate:** The credited amount is calculated as a percentage of each Premium Payment and varies as shown below.

| <u>Total Premiums</u> | <u>Premium Credit</u> |
|-----------------------|-----------------------|
| Up to \$49,999        | 3.00%                 |
| \$50,000 - \$99,999   | 3.25%                 |
| \$100,000 - \$499,999 | 4.00%                 |
| \$500,000 & greater   | 5.00%                 |

Premium Credit Band Levels and Rates are determined by weighing several important factors. The most important among these are 1) interest rates available to NYLIAC on suitable investments, 2) the interest rates offered by our competitors-primarily companies who have received ratings from the independent rating agencies similar to those received by our company, and 3) profitability. The current band levels and crediting rates, while subject to adjustment at NYLIAC's discretion are not frequently changed. **Note to Analyst:** Include the following statement only for those states that require it: Any changes to the band levels (ranges) will be submitted to the Department for formal review.

**Guaranteed Minimum Premium Credit Rate:** The range for the rate applied is any whole percentage between and including 1.0% and 3.0%

**Allocation Alternatives:** To allow for flexibility in changing the investment divisions offered by this product. The current investment divisions offered are:

- MainStay VP Balanced
- MainStay VP Bond
- MainStay VP Capital Appreciation
- MainStay VP Cash Management
- MainStay VP Common Stock
- MainStay VP Conservative Allocation Port
- MainStay VP Convertible
- MainStay VP Developing Growth
- MainStay VP Floating Rate
- MainStay VP Government
- MainStay VP Growth Allocation Portfolio
- MainStay VP High Yield Corporate Bond
- MainStay VP ICAP Select Equity Portfolio
- MainStay VP International Equity
- MainStay VP Large Cap Growth
- MainStay VP Mid-Cap Core
- MainStay VP Mid-Cap Growth
- MainStay VP Mid-Cap Value
- MainStay VP Moderate Allocation Port
- MainStay VP Moderate Growth Allocation
- MainStay VP S&P 500 Index
- MainStay VP Small-Cap Growth
- MainStay VP Total Return
- CVS Calvert Social Balanced

Columbia Small Cap Value Fund Variable Series  
Dreyfus IP Technology Growth  
Fidelity VIP Contrafund  
Fidelity VIP Equity-Income  
Fidelity VIP Mid Cap  
Janus Aspen Series Balanced  
Janus Aspen Series Worldwide Growth  
MFS Investors Trust Series  
MFS Research Series  
MFS Utilities Series  
Neuberger Berman AMT Mid Cap Growth  
Royce Micro-Cap Portfolio – Inv Cls  
Royce Small-Cap Portfolio – Inv Cls  
T. Rowe Price Equity Income Portfolio  
Van Eck Worldwide Hard Assets  
Van Kampen UIF Emerging Markets Equity  
Victory VIF Diversified Stock

**MINIMUMS:**

If the M&E fee is determined based on the Policy's Variable Accumulation Value, the following language will display:

“Transfer amount to the Fixed Account: \$500”

If the M&E fee is determined based on a percentage of the Premium Payment, this field will not display on the data page since no transfers are permitted from the Investment Divisions to the Fixed Account.

**MAXIMUMS:**

Premium Payment allowed without prior approval from NYLIAC: \$1,000,000. NYLIAC reserves the right to change this amount for new issues only.

**Transfers:**

If the M&E Fee is determined based on a percentage of the Premium Payment, the following language will display:

“Charge for each transfer made to or from an Investment Division and/or from the Fixed Account after the first twelve (12) transfers in a Policy Year: \$30”

“No transfers are permitted from the Investment Divisions to the Fixed Account.”

If the M&E fee is determined based on the Policy's Variable Accumulation Value, the language below will display:

“Charge for each transfer made to or from an Investment Division and/or to or from the Fixed Account after the first twelve (12) transfers in a Policy Year: \$30”

“Transfers from the Investment Divisions to the Fixed Account are permitted only if no transfers were made from the Fixed Account during the past six (6) months.”

**SEPARATE ACCOUNT MORTALITY AND EXPENSE RISK AND ADMINISTRATIVE COSTS CHARGE:** This charge can be any percentage between and including 1% and 3% and is guaranteed for the life of the policy. Any changes will apply only to new issues. The Owner has the option to elect the charge either as a percentage of the Premium Payment or a percentage of the Variable Accumulation Value.

**If the Owner elects to structure the charge based on a percentage of the Premium Payment, the following language will display:**

“A charge, equal on an annual basis to 1.75% of the Adjusted Premium Payment and the portion of the Premium Payment(s) transferred from the Fixed Account to the Investment Divisions, will be deducted from

the Variable Accumulation Value each policy quarter and on the date the policy is surrendered. The Adjusted Premium Payment is defined as the total Premium Payment(s) allocated to the Investment Divisions of NYLIAC Variable Annuity Separate Account IV and the DCA Advantage Account reduced by withdrawals and applicable surrender charges in excess of any gain in the Policy. This charge will be deducted, in the form of a reduction of Accumulation Units, from each Investment Division on a pro-rata basis. This charge will not affect the value of an Accumulation Unit.

**NET INVESTMENT FACTOR:**

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of the Separate Account for the Valuation Period is determined by dividing a) by b) where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus
- 2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period; and

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division determined as of the end of the immediately preceding Valuation Period.”

**If the Owner elects to structure the charge based on a percentage of the Policy’s Accumulation Value, the alternate language provided below will display:**

“A charge, equal on an annual basis to 1.65% of the daily average Variable Accumulation Value.

**NET INVESTMENT FACTOR:**

The net investment factor for this Policy used to calculate the value of an Accumulation Unit in any Investment Division of NYLIAC Variable Annuity Separate Account III for the Valuation Period is determined by dividing (a) by (b) and subtracting (c) from the result, where:

a) is the sum of:

- 1) the net asset value of a Fund share held in the Separate Account for that Investment Division determined at the end of the current Valuation Period, plus
- 2) the per share amount of any dividend or capital gain distributions made by the Fund for shares held in the Separate Account for that Investment Division if the ex-dividend date occurs during the Valuation Period; and

b) is the net asset value of a Fund share held in the Separate Account for that Investment Division determined as of the end of the immediately preceding Valuation Period; and

c) is the daily Mortality and Expense Risk and Administrative Costs Charge, which is  $1/365^{\text{th}}$ \* of the annual Mortality and Expense Risk and Administrative Costs Charge shown on the Policy Data Page.

\* In a leap year this calculation is based on 366 days.”

## **RIDERS:**

Available text entries are:

- Upromise  
*This rider will automatically display only on non-qualified policies and can be exercised at the option of the Owner.*
- Living Needs Benefit  
*This rider is automatically available on all non-qualified and qualified plans and is exercisable upon the Policy Owner's option.*
- Unemployment Benefit  
*This rider is automatically available on non-qualified plans and the following qualified plans: Traditional IRA, Roth IRA, Inherited IRA, SEP IRA and SIMPLE IRA.*
- Breakpoint Credit  
*This rider is automatically available on all non-qualified and qualified plans.*
- Enhanced Beneficiary Benefit
- Investment Protection Plan
- Annual Death Benefit Reset  
*These riders are optional and will only display if elected by the applicant.*

All other bracketed items are John Doe information.

## **New York Life Insurance and Annuity Corporation (NYLIAC)**

### **Statement of Variability For Deferred Variable Annuities Application Form Number: 208-594**

Any use of variability shall be administered in a uniform and non-discriminatory manner and shall not result in unfair discrimination. The following information, that is bracketed, is denoted as variable.

#### **Top of form**

**Executive Office/Home Office Addresses:** For changes to this information should NYLIAC's office locations change.

#### **Section 1**

##### **Product Selection**

**Product Availability:** For the addition of any subsequent product that may be filed and approved for which we would use this application for solicitation purposes. Also, for removal of products that we discontinue soliciting.

**Product Marketing Name:** For changes to the marketing name.

**Annuity Commencement Age:** For changes to comply with federal or state laws or regulations or to accommodate changes to the company's suitability standards.

#### **Section 4**

**FPVA Information:** This information would be removed if solicitation of the New York Life Flexible Premium Variable Annuity (FPVA) product were discontinued.

#### **Section 7**

**Plan Type:** For changes to the plan types made available by NYLIAC and in accordance with applicable law for tax qualified plans available with this product. If the available choices for the Plan Type change, we will submit a limited informational filing.

#### **Section 8**

**Riders:** To facilitate adding or removing rider information when new riders are approved by your Department for use with any of these products, and when existing approved riders are withdrawn from use either by the company or as required by state law.

## **New York Life Insurance and Annuity Corporation (NYLIAC)**

### **Statement of Variability For Deferred Variable Annuity Application Form Number: 208-598**

Any use of variability shall be administered in a uniform and non-discriminatory manner and shall not result in unfair discrimination. The following information, that is bracketed, is denoted as variable.

#### **Top of form**

**Marketing Name:** For changes to the marketing name.

**Annuity Commencement Age:** For changes to comply with federal or state laws or regulations or to accommodate changes to the company's suitability standards.

**Executive Office/Home Office Addresses:** For changes to this information should NYLIAC's office locations change.

#### **Section 6**

**Plan Type:** For changes to the plan types made available by NYLIAC and in accordance with applicable law for tax qualified plans available with this product. If the available choices for the Plan Type change, we will submit a limited informational filing.

#### **Section 7**

**Riders:** To facilitate adding or removing rider information when new riders are approved by your Department for use with this product, and when existing approved riders are withdrawn from use either by the company or as required by state law.

## **New York Life Insurance and Annuity Corporation (NYLIAC)**

### **Statement of Variability For Deferred Variable Annuity Application Form Number: 208-599**

Any use of variability shall be administered in a uniform and non-discriminatory manner and shall not result in unfair discrimination. The following information, that is bracketed, is denoted as variable.

#### **Top of form**

**Marketing Name:** For changes to the marketing name.

**Annuity Commencement Age:** For changes to comply with federal or state laws or regulations or to accommodate changes to the company's suitability standards.

**Executive Office/Home Office Addresses:** For changes to this information should NYLIAC's office locations change.

#### **Section 6**

**Plan Type:** For changes to the plan types made available by NYLIAC and in accordance with applicable law for tax qualified plans available with this product. If the available choices for the Plan Type change, we will submit a limited informational filing.

#### **Section 7**

**Riders:** To facilitate adding or removing rider information when new riders are approved by your Department for use with this product, and when existing approved riders are withdrawn from use either by the company or as required by state law.

## **New York Life Insurance and Annuity Corporation (NYLIAC)**

### **Statement of Variability For Deferred Variable Annuity Application Form Number: 208-600**

Any use of variability shall be administered in a uniform and non-discriminatory manner and shall not result in unfair discrimination. The following information, that is bracketed, is denoted as variable.

#### **Top of form**

**Marketing Name:** For changes to the marketing name.

**Annuity Commencement Age:** For changes to comply with federal or state laws or regulations or to accommodate changes to the company's suitability standards.

**Executive Office/Home Office Addresses:** For changes to this information should NYLIAC's office locations change.

#### **Section 5**

**Plan Type:** For changes to the plan types made available by NYLIAC and in accordance with applicable law for tax qualified plans available with this product. If the available choices for the Plan Type change, we will submit a limited informational filing.

#### **Section 6**

**Riders:** To facilitate adding or removing rider information when new riders are approved by your Department for use with this product, and when existing approved riders are withdrawn from use either by the company or as required by state law.



**NEW YORK LIFE INSURANCE COMPANY**  
**NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**  
 (A Delaware Corporation)  
 1 Rockwood Road, Sleepy Hollow, NY 10591

"The Company You Keep"®

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October 2, 2008

Hon. Julie Benafield Bowman  
 Commissioner  
 Department of Insurance  
 1200 W. Third Street  
 Little Rock, AR 72201-1904

**RE: NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**

N.A.I.C. NO.: 826-91596  
 F.E.I.N.: 13-3044743

|                   |                                      |             |
|-------------------|--------------------------------------|-------------|
| Form No.: 208-190 | Individual Deferred Variable Annuity | Contract    |
| 208-191           | Individual Deferred Variable Annuity | Contract    |
| 208-192           | Individual Deferred Variable Annuity | Contract    |
| 208-594           | Individual Deferred Variable Annuity | Application |
| 208-598           | Individual Deferred Variable Annuity | Application |
| 208-599           | Individual Deferred Variable Annuity | Application |
| 208-600           | Individual Deferred Variable Annuity | Application |
| 203-304 (11/2008) | Enhanced Beneficiary Benefit         | Rider       |
| 203-303 (11/2008) | Enhanced Spousal Continuance         | Rider       |
| 203-305 (11/2008) | Annual Death Benefit Reset           | Rider       |
| 999-302 (11/2008) | Investment Protection Plan           | Rider       |
| 209-311           | Breakpoint Credit                    | Rider       |

Dear Hon. Julie Benafield Bowman:

I am enclosing for your approval three new individual deferred variable annuity policies, four new applications that will be used to apply for these policies, four revised riders and one new rider. These policies and related forms will be issued by New York Life Insurance and Annuity Corporation (NYLIAC).

Proceeds under the policy forms may accumulate on either a "fixed" or "variable" basis, or a combination of both. These new policies consolidate various product features currently offered under multiple products (policy form numbers). This consolidation simplifies our variable

annuity offerings in order to 1) enhance client understanding of how the products work and which best suits their needs; 2) facilitate agent training on our products and 3) help make our sales promotion efforts more straightforward. Once approved, the new policies and riders will replace those previously approved by your Department where applicable. In addition, the fixed account in each policy form will use a guaranteed minimum interest rate (GMIR) that is **not** determined based on the nonforfeiture rate formula as defined under your state's nonforfeiture law. This rate will be less than the nonforfeiture rate and set for the life of the policy. It is subject to change from time to time for new issues only and will be administered in a nondiscriminatory manner. A range for this rate is provided in the accompanying statements of variability. The nonforfeiture rate is based on a methodology, which is provided in the statement of variability and actuarial memorandum for each contract. This rate will be determined every six months and will apply only to new issues. Because the GMIR is not equal to and set at a lower rate than the nonforfeiture rate, we have included definitions of the guaranteed cash surrender value for the fixed account, and if applicable, the DCA Advantage account, and of the nonforfeiture rate and the nonforfeiture value. These definitions explain how the guaranteed cash surrender value, the nonforfeiture rate and nonforfeiture values are determined. Upon surrender of the policy, the client will receive no less than the guaranteed cash surrender value, as defined in the policy, in addition to any available surrender value from the investment divisions. Policy forms 208-191 and 208-192 also include innovative features that will allow applicants to select options best suited to their particular needs.

The enclosed policy and rider forms will primarily be available for the "non tax-qualified" market, and for the "tax-qualified market": 403(b), "Tax-Sheltered Annuity" plans (school systems, hospitals, etc.), the Individual Retirement Annuity (IRA) market including Simplified Employee Pension (SEP), Inherited IRA, Roth IRA and SIMPLE IRA plans and 401(a) Pension plans.

Additional information regarding these forms is provided below and the charts that follow this letter list all forms that will be used with these new products and those forms that will be replaced by these new products.

Please note that the company has not yet finalized the marketing names for the new products, sold via policy forms 208-191 and 208-192. As such, the current names that are provided on each application and policy are only placeholders and will be replaced before the products are made available.

### **Policy Form 208-190**

Policy form 208-190 is a flexible premium deferred variable annuity, and is non-participating. It will replace policy form 204-191, which was approved by your Department on 9/22/2004. A distinguishing feature of policy form 208-190 is that it has no surrender charges. When a partial withdrawal is made, or if the policy is surrendered, no surrender charge will be assessed.

This new policy form is substantially similar to the one being replaced. The primary differences are an increase in the Mortality & Expense Risk and Administrative Costs charge ("M&E fee") to 1.65% of the policy's variable accumulation value, the death benefit being payable solely on

the death of the owner, rather than either the owner or the annuitant, and the guaranteed death benefit being the greater of the adjusted death benefit premium payments or the policy's accumulation value. The annual reset element of the death benefit calculation has been removed from the policy and is now available as an option via the Annual Death Benefit Reset Rider, form number 203-305 (11/2008), which is being filed herewith. In addition, when determining the guaranteed death benefit amount in the base policy, the adjusted death benefit premium payments account for partial withdrawals *proportionally*.

The issue ages for this policy form are 0-80 for non tax-qualified plans and 18-80 for tax-qualified plans. For Inherited IRA plans, the issue ages are 0-80.

### **Policy Forms 208-191 and 208-192**

These policies are flexible premium deferred variable annuities and are non-participating.

Policy form 208-191 will replace policy forms 202-192 and 203-193, which were approved by your Department on 3/5/2002 and 7/1/2003, respectively.

Policy Form 208-192 will replace policy forms 203-190 and 203-195, which were approved by your Department on 3/24/2003 and policy form 204-193 which was approved by your Department on 9/17/2004.

A distinguishing and innovative feature of both policy forms 208-191 and 208-192 is that the customer, at time of application, has the option to choose how their M&E fees will be charged. The "M&E fee" will be based on either 1) premiums allocated to the variable investment divisions and the 6-month DCA Advantage account or 2) the variable accumulation value of the policy. The availability of transfers to the fixed account is dependent upon the M&E fee method chosen. Transfers to the fixed account are limited under certain circumstances. However, if the M&E fee is based on premiums paid, no transfers are permitted to the fixed account.

In addition, the death benefit is payable *solely* on the death of the owner, rather than either the owner or the annuitant. The surrender charges have separate surrender charge schedules associated with each premium payment and partial withdrawals are subject to the smallest surrender penalty first (commonly referred to as first-in first-out).

A unique feature to policy form 208-192 is that it provides for an additional crediting to the policy's accumulation value concurrent with a premium payment. The credit is based on a percentage of the premium payment amount. It is nonforfeitable unless the policy owner dies within 12 months of the date the credit was applied, or if the policy is returned during the free look period. A unique feature to policy form 208-191 is that policies issued to customers age 76 or older have a surrender charge-free amount calculation that uses 50% of the policy's accumulation value and 10% of the policy's accumulation value for issue ages under 76.

The issue ages for policy form 208-191 are 0-80 for non tax-qualified plans and 18-80 for tax-qualified plans. For Inherited IRA plans, the issue ages are 0-80. The issue ages for policy form

208-192 are 0-75 for non tax-qualified plans and 18-75 for tax-qualified plans. For Inherited IRA plans, the issue ages are 0-75.]

Policy forms 208-190, 208-191 and 208-192 will be solicited individually through the company's agents only. At some time in the future, NYLIAC may offer these products and solicit these policy forms individually through independent agencies (independent distribution channel).

### **Application Form 208-594**

When policy forms 208-190, 208-191 and 208-192 and rider forms 203-305 (11/2008), 203-304 (11/2008), 203-303 (11/2008) and 999-302 (11/2008) are solicited through the company's agents, application form 208-594 will be used. This application replaces form number 204-593, which was approved by your Department on 9/17/2004. Application form 208-594 is substantially similar to application form 204-593. The primary changes to application form 208-594 are as follows:

- 1) The form does not include 2 questions: 1) "Do you have any existing life insurance or annuity policies?" and 2) "Is this a replacement of a life insurance or annuity policy?"

These questions will now be included on our replacement form, form number 22190.100, which is completed with the application for all sales, whether or not a replacement is involved. This replacement form was approved by your Department on 10/10/2007.

- 2) The beneficiary section has been reformatted to provide more space for both primary and contingent beneficiaries.

### **Application Forms 208-598, 208-599 and 208-600**

If policy forms 208-190, 208-191 and 208-192 and rider forms 203-305 (11/2008), 203-304 (11/2008), 203-303 (11/2008) and 999-302 (11/2008) are solicited through the company's independent distribution channel, a variety of solicitation methods will be used. They may be solicited without an application (App-Less), with an application acquired at the time of the policy's delivery (App-Later) or using the traditional process. When an application is used, we will use form number 208-600 for policy form 208-190, form number 208-598 for policy form 208-191, and form number 208-599 for policy form 208-192.

### **Annual Death Benefit Reset Rider, form 203-305 (11/2008)**

This rider resets and locks in the value of the death benefit at the highest reset value available on the policy's reset anniversary. Election of this rider is optional and it may be elected only at the time of application for a policy.

This rider will be solicited individually through the company's agents. At some time in the future, we may offer this benefit through independent agencies as well. This rider is similar to and will replace rider form 203-305 (8/2004), which was approved by your Department on

8/25/2004. In addition to clarifying the language in certain sections of the rider, the primary differences between the formerly approved form and this revised form are: 1) the reset anniversary has been re-defined based solely on the owner's age, 2) the term Proportional Withdrawal was renamed to ADBR Proportional Withdrawal to avoid confusion among various types of proportional withdrawals among the policy and optional riders 3) the definitions of Adjusted Death Benefit Premium Payments and Adjusted Death Benefit Premium Payment Proportional Withdrawal were added. The Adjusted Death Benefit Premium Payment is used in determining the reset value on the first policy anniversary and the Adjusted Death Benefit Premium Payment Proportional Withdrawal is used to determine the Adjusted Death Benefit Premium Payment and 4) the removal of the General Provisions section which stated that the rider had no accumulation value and included an assignment provision. We believe this information is not necessary since the rider clearly explains the benefit it provides and the assignment provision is explained in the policy.

### **Enhanced Beneficiary Benefit Rider, form 203-304 (11/2008)**

This rider provides for an Enhanced Beneficiary Benefit in addition to the amount payable under the policy if the policy owner dies prior to the annuity commencement date. Election of this rider is optional and it may be elected only at the time of application for a policy.

This rider will be solicited individually through the company's agents. At some time in the future, we may offer this benefit through independent agencies as well. This rider is similar to and will replace rider forms 203-304 and 201-304, which were approved by your Department on 7/1/2003 and 6/8/2001, respectively. This rider will replace the formerly approved rider 201-304 only for the new policies submitted herewith. In addition to clarifying the language in certain sections of the rider, the primary differences between the formerly approved forms and this revised form is that we have 1) consolidated the prior versions and modified this rider so that the benefit section covers all situations under which the benefit is determined 2) made the death benefit payable solely on the death of the policy owner, rather than on the death of either the policy owner *or* the annuitant and 3) the removal of the General Provisions section which stated that the rider had no accumulation value and included an assignment provision. We believe this information is not necessary since the rider clearly explains the benefit it provides and the assignment provision is explained in the policy.

### **Enhanced Spousal Continuance Rider, form 203-303 (11/2008)**

When a spouse, as the beneficiary, is eligible to and elects to continue the policy as the new policy owner, this rider provides that we will adjust the policy's accumulation value to include any available death benefit amount that would have been payable under the policy or that which would have been payable under an optional rider and/or the Enhanced Beneficiary Benefit rider. This rider will be included with the policy only at issue upon election of the Enhanced Beneficiary Benefit rider and only for certain markets (plan types).

This rider will be solicited individually through the company's agents. At some time in the future, we may offer this benefit through independent agencies as well. This rider is similar to and will replace rider forms 203-303 and 201-303, which were approved by your Department on

7/1/2003 and 6/8/2001, respectively. This rider will replace the formerly approved rider 201-303 only for the new policies submitted herewith. In addition to clarifying the language in certain sections of the rider, the primary differences between the formerly approved forms and this revised form is that we have 1) consolidated the prior versions and modified this rider so that the benefit section covers all situations under which the benefit is determined and 2) the removal of the General Provisions section, which stated that the rider had no accumulation value. We believe this information is not necessary since the rider clearly explains the benefit it provides.

### **Investment Protection Plan Rider, form 999-302 (11/2008)**

This rider allows the policy owner to surrender the policy and receive the greater of the policy's accumulation value or the guaranteed amount. Election of this rider is optional and it may be elected at the time of application for a policy or, if we make it available, for an in-force policy. This rider will be solicited individually through the company's agents. At some time in the future, we may offer this benefit through independent agencies as well. This rider is similar to and will replace rider form 999-302, which was approved by your Department on 3/5/1999. In addition to clarifying the language in certain sections of the rider, the primary differences between the formerly approved form and this revised form are: 1) section five has been amended to provide for restrictions on the reset feature for non tax-qualified and Roth IRA plans and the maximum age for electing the rider on tax-qualified plans and 2) removal of the General Provisions section which stated that the rider had no accumulation value and included an assignment provision. We believe this information is not necessary since the rider clearly explains the benefit it provides and the assignment provision is explained in the policy.

### **Breakpoint Credit Rider, form 209-311**

This rider will be automatically included with policy forms 208-191 and 208-192 and will be solicited individually through the company's agents. At some time in the future, we may offer this benefit through independent agencies as well. This is a new rider that provides an additional credit that is applied to the policy's accumulation value when we receive cumulative premium payments in excess of one million dollars, in accordance with the Breakpoint Credit Rate Schedule in the rider. This feature returns to the client some of the benefits of the economies of scale that accrue from the sale of very large policies, and helps moderate the fees that the policy will incur over time. We believe that the sales effort involved in the marketing of large policies is not necessarily linear to the level commission rates. In an effort to recognize that, we are reducing the compensation paid on these sales so that it is not disproportionate to the efforts required. This reduction in compensation funds the Breakpoint Credit.

### **Domicile Approval Status**

Policy forms 208-190, 208-191 and 208-192, application forms 208-594, 208-598, 208-599 and 208-600, and rider forms 203-305 (11/2008), 203-303 (11/2008), 203-304 (11/2008), 999-302 (11/2008) and 209-311 were filed with the Insurance Department of our domicile State of Delaware on 9/29/2008 and are pending approval.

A new prospectus will be submitted to the Securities and Exchange Commission (“SEC”) in the near future.

These forms will be pre-printed or laser-emitted with identical language approved by the Department. The Company reserves the right to change the book-turn duplex, printing, pagination, location of print lines and words, signature graphic, and the type of font (but not point size to less than 10) of these forms without resubmitting for approval.

We would appreciate receiving your Department’s approval of the enclosed forms at your earliest convenience. If you have any questions regarding this submission, you may contact me at the phone number or e-mail address noted above.

Sincerely,

A handwritten signature in cursive script that reads "Suzanne Wolf".

Suzanne M. Wolf  
Assistant Vice President – Product Compliance

SMW: gd

| <b>New York Life Insurance and Annuity Corporation</b><br><b>Forms that will be used with policy forms 208-190, 208-191 and 208-192</b><br><b>in the state of Arkansas</b> |  |                      |
|--|--|----------------------|
| <b>Form Number</b>   | <b>Brief Description</b>   | <b>Approval Date</b> |
| 208-594  | Application (Company agents)   | Pending Approval     |
| 208-598  | Application (Independent distribution channel for 208-191)                                     | Pending Approval     |
| 208-599  | Application (Independent distribution channel for 208-192)                                     | Pending Approval     |
| 208-600  | Application (Independent distribution channel for 208-190)                                     | Pending Approval     |
| 203-304 (11/2008)  | Enhanced Beneficiary Benefit Rider   | Pending Approval     |
| 203-303 (11/2008)  | Enhanced Spousal Continuance Rider   | Pending Approval     |
| 203-305 (11/2008)  | Annual Death Benefit Reset Rider   | Pending Approval     |
| 999-302 (11/2008)  | Investment Protection Plan Rider - <i>available only with policy forms 208-191 and 208-192</i> | Pending Approval     |
| 209-311  | Breakpoint Credit Rider - <i>available only with policy forms 208-191 and 208-192</i>          | Pending Approval     |
| 6234-04  | TSA 403(b) Endorsement -ERISA  | 8/22/2005            |
| 6225-05  | Unisex Endorsement   | 9/20/2005            |
| 6236-02  | Traditional IRA Endorsement  | 8/11/2003            |
| 6285-02  | Roth IRA Endorsement   | 12/6/2002            |
| 6424-05  | SIMPLE IRA Endorsement   | 9/20/2005            |
|  |  |                      |
| 991-299.26   | Living Needs Benefit Rider - <i>available only with policy forms 208-191 and 208-192</i>       | 4/27/1992            |
| 992-300  | Unemployment Benefit Rider - <i>available only with policy forms 208-191 and 208-192</i>       | 4/9/1992             |
| 201-307  | Upromise Account Rider   | 10/26/2001           |
| 22190.100  | Replacement Notice to be used with application 208-594   | 10/10/2007           |
| 20830 (1/04)   | State Guaranty Association Notice  | N/A or approval date |
| 20247VA 2/98   | Inquiry Notice (agency distribution)   | N/A or approval date |
| ANN42011(AR)(0 2/2007)   | Inquiry Notice (bank distribution)   | N/A or approval date |
| XXXXXXXX   | Other Required Disclosures   | XXXXXXXX             |

| <b>New York Life Insurance and Annuity Corporation</b><br><b>Forms that will be replaced</b> |                          |                      |
|--|--------------------------|----------------------|
| <b>Replaced Form Number</b>  | <b>Brief Description</b> | <b>Approval Date</b> |

|                   |  |                     |
|-------------------|--|---------------------|
| 204-191           | Individual Deferred Variable Annuity Contract (Access)   | 9/22/2004           |
| 202-192           | Individual Deferred Variable Annuity Contract (Essentials)   | 3/5/2002            |
| 203-193           | Individual Deferred Variable Annuity Contract (Elite)  | 7/1/2003            |
| 203-190           | Individual Deferred Variable Annuity Contract (Premium Plus) - Independent distribution channel    | 3/24/2003           |
| 203-195           | Individual Deferred Variable Annuity Contract (Premium Plus) – company agency channel              | 3/24/2003           |
| 204-193           | Individual Deferred Variable Annuity Contract (Premium Plus Elite)                                 | 9/17/2004           |
| 204-593           | Individual Deferred Variable Annuity Application (Company agents)                                  | 9/17/2004           |
| 203-304 & 201-304 | Enhanced Beneficiary Benefit Rider (201-304 replaced only for the new policies submitted herewith) | 7/1/2003 & 6/8/2001 |
| 203-303 & 201-303 | Enhanced Spousal Continuance Rider (201-303 replaced only for the new policies submitted herewith) | 7/1/2003 & 6/8/2001 |
| 203-305 (8/2004)  | Annual Death Benefit Reset Rider   | 8/25/2004           |
| 999-302           | Investment Protection Plan Rider   | 3/5/1999            |

**ARKANSAS  
INSURANCE  
DEPARTMENT**

**FILING FEE TRANSMITTAL FORM \*\*\***

**ATTN: LIFE & HEALTH DIVISION, ARKANSAS INSURANCE DEPARTMENT**

**Company Name :** New York Life Insurance and Annuity Corporation NAIC#: 826-91596

**Company Contact Person:** Suzanne Wolf Telephone No.: Toll Free: (800) 280-3551

|   |         |             |
|---|---------|-------------|
| <b><u>INSURANCE DEPARTMENT USE ONLY</u></b> |         |             |
| ANALYST :                                   | AMOUNT: | ROUTE SLIP: |

ALL FEES ARE PER EACH INSURED, PER ANNUAL STATEMENT LINE OF BUSINESS,  
UNLESS OTHERWISE INDICATED.

FEE SCHEDULE FOR ADMITTED INSURERS

RATE/ FORM FILINGS

|  |   |
|--|---|
| Life and/or Disability policy form filing and review, per each policy, contract, annuity form , per each insurer, per each filing  | ## 3 x \$50= \$ 150<br>**Retaliatory \$###.##     |
| Life and/or Disability- Filing and review of each rate filing or loss ratio guarantee filing, per each insurer.  | * ### x \$50= \$ ###.##<br>**Retaliatory \$###.## |
| Life and/or Disability Policy, Contract or Annuity Forms: Filing and review of certificate, rider, endorsement or application if each is filed separately from the basic form. | * ### x \$50= \$ ###.##<br>**Retaliatory \$50     |
| Policy and contract forms, all lines, filing corrections in previously filed policy and contract forms.  | * ### x \$20= \$ ###.##<br>**Retaliatory \$###.## |
| Life and/or Disability: Filing and review of Insured's advertisements, per advertisement, per each insurer.  | * ### x \$25= \$ ###.##<br>**Retaliatory \$###.## |

AMEND CERTIFICATE OF AUTHORITY

Review and processing of information to amend an Insurer's Certificate of Authority. \* ## x \$ 400 = \$ ###.##

Filing to amend Certificate of Authority. \*\*\* ### x \$100 = \$ ###.##

\*THESE FEES ARE PAYABLE UNDER THE NEW FEE SCHEDULE AS OUTLINED UNDER RULE AND REGULATION 57.

\*\*THESE FEES ARE PAYABLE UNDER THE OLD FEE SCHEDULE AS OUTLINED UNDER ARK. CODE ANN. 23-63-102, RETALIATORY TAX.

\*\*\*THESE FEES ARE PAYABLE AS REQUIRED IN ARK. ANN. 23-61-401.

**LIMITATIONS AND EXCLUSIONS UNDER THE  
ARKANSAS LIFE AND HEALTH INSURANCE  
GUARANTY ASSOCIATION ACT**

Residents of this state who purchase life insurance, annuities or health and accident insurance should know that the insurance companies licensed in this state to write these types of insurance are members of the Arkansas Life and Health Insurance Guaranty Association (“Guaranty Association”). The purpose of the Guaranty Association is to assure that policy and contract owners will be protected, within certain limits, in the unlikely event that a member insurer becomes financially unable to meet its obligations. If this should happen, the Guaranty Association will assess its other member insurance companies for the money to pay the claims of policy owners who live in this state and, in some cases, to keep coverage in force. The valuable extra protection provided by the member insurers through the Guaranty Association is not unlimited, however. And, as noted in the box below, this protection is not a substitute for consumers’ care in selecting insurance companies that are well managed and financially stable.

**DISCLAIMER**

The Arkansas Life and Health Insurance Guaranty Association (“Guaranty Association”) may not provide coverage for this policy. If coverage is provided, it may be subject to substantial limitations or exclusions and require continued residency in this state. You should not rely on coverage by the Guaranty Association in purchasing an insurance policy or contract.

Coverage is NOT provided for your policy or contract or any portion of it that is not guaranteed by the insurer or for which you have assumed the risk, such as non-guaranteed amounts held in a separate account under a variable life or variable annuity contract.

Insurance companies or their agents are required by law to provide you with this notice. However, insurance companies and their agents are prohibited by law from using the existence of the Guaranty Association to induce you to purchase any kind of insurance policy.

The Arkansas Life and Health Insurance Guaranty Association  
c/o The Liquidation Division  
1023 West Capitol  
Little Rock, Arkansas 72201

Arkansas Insurance Department  
1200 West Third Street  
Little Rock, Arkansas 72201-1904

The state law that provides for this safety-net is called the Arkansas Life and Health Insurance Guaranty Association Act (“Act”). Below is a brief summary of the Act’s coverages, exclusions and limits. This summary does not cover all provisions of the Act; nor does it in any way change anyone’s rights or obligations under the Act or the rights or obligations of the Guaranty Association.

**COVERAGE**

Generally, individuals will be protected by the Guaranty Association if they live in this state and hold a life, annuity or health insurance contract or policy, or if they are insured under a group insurance contract issued by a member insurer. The beneficiaries, payees or assignees of policy or contract owners are protected as well, even if they live in another state.

## EXCLUSIONS FROM COVERAGE

However, persons owning such policies are NOT protected by the Guaranty Association if:

- They are eligible for protection under the laws of another state (this may occur when the insolvent insurer was incorporated in another state whose guaranty association protects insureds who live outside that state);
- The Insurer was not authorized to do business in this state;
- Their policy or contract was issued by a nonprofit hospital or medical service organization, an HMO, a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company or similar plan in which the policy or contract owner is subject to future assessments, or by an insurance exchange.

The Guaranty Association also does NOT provide coverage for:

- Any policy or contract or portion thereof which is not guaranteed by the insurer or for which the owner has assumed the risk, such as non-guaranteed amounts held in a separate account under a variable life or variable annuity contract;
- Any policy of reinsurance (unless an assumption certificate was issued);
- Interest rate yields that exceed an average rate;
- Dividends and voting rights and experience rating credits;
- Credits given in connection with the administration of a policy by a group contract holder;
- Employers' plans to the extent they are self-funded (that is, not insured by an insurance company, even if an insurance company administers them);
- Unallocated annuity contracts (which give rights to group contractholders, not individuals);
- Unallocated annuity contracts issued to/in connection with benefit plans protected under Federal Pension Benefit Corporation ("FPBC")(whether the FPBC is yet liable or not);
- Portions of an unallocated annuity contract not owned by a benefit plan or a government lottery (unless the owner is a resident) or issued to a collective investment trust or similar pooled fund offered by a bank or other financial institution);
- Portions of a policy or contract to the extent assessments required by law for the Guaranty Association are preempted by State or Federal law;
- Obligations that do not arise under the policy or contract, including claims based on marketing materials or side letters, riders, or other documents which do not meet filing requirements, or claims for policy misrepresentations, or extra-contractual or penalty claims;
- Contractual agreements establishing the member insurer's obligations to provide book value accounting guarantees for defined contribution benefit plan participants (by reference to a portfolio of assets owned by a nonaffiliate benefit plan or its trustees).

## LIMITS ON AMOUNT OF COVERAGE

The Act also limits the amount the Guaranty Association is obligated to cover: The Guaranty Association cannot pay more than what the insurance company would owe under a policy or contract. Also, for any one insured life, the Guaranty Association will pay a maximum of \$300,000 – no matter how many policies and contracts there were with the same company, even if they provided different types of coverages. Within this overall \$300,000 limit, the Association will not pay more than \$300,000 in health insurance benefits, \$300,000 in present value of annuity benefits, or \$300,000 in life insurance death benefits or net cash surrender values – again, no matter how many policies and contracts there were with the same company, and no matter how many different types of coverages. There is a \$1,000,000 limit with respect to any contract holder for unallocated annuity benefits, irrespective of the number of contracts held by the contract holder. These are limitations for which the Guaranty Association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer.

**NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION (NYLIAC)**  
(A Delaware Corporation)

Variable Products Service Center  
Madison Square Station  
P.O. Box 922  
New York, NY 10159

Tel. No.: 1-800-598-2019

**NOTICE** - Should you have any questions about your policy, write to or call the Corporation shown above that issued the policy. If the question is not resolved, you may also write to or call the Arkansas Insurance Department, Consumer Services Division, 1200 W. Third Street, Little Rock, Arkansas 72201-1904, Telephone: 501-371-2640. If you need any additional information, you may also contact the agent whose card is attached.

**NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION (NYLIAC)**  
(A Delaware Corporation)

NYL Annuity Service Center  
2400 Reliable Parkway  
Chicago, IL 60686

Tel. No.: 1-800-762-6212

**NOTICE** - Should you have any questions about your policy, write to or call the Corporation shown above that issued the policy. If the question is not resolved, you may also write to or call the Arkansas Insurance Department, Consumer Services Division, 1200 W. Third Street, Little Rock, Arkansas 72201-1904, Telephone: 501-371-2640 or 1-800-852-5494. If you need any additional information, you may also contact the agent whose card is attached.

## Life, Accident & Health, Annuity, Credit Transmittal Document

|           |                                  |          |
|-----------|----------------------------------|----------|
| <b>1.</b> | <b>Prepared for the State of</b> | Arkansas |
|-----------|----------------------------------|----------|

|           |                            |
|-----------|----------------------------|
| <b>2.</b> | <b>Department Use Only</b> |
|           | <b>State Tracking ID</b>   |
|           |                            |

| 3. | Insurer Name & Address  | Domicile | Insurer License Type | NAIC Group # | NAIC # | FEIN #     | State # |
|----|---|----------|----------------------|--------------|--------|------------|---------|
|    | New York Life Insurance and Annuity Corp.<br>1 Rockwood Road<br>Sleepy Hollow, NY 10591 | Delaware | Life                 | 826          | 91596  | 13-3044743 |         |

| 4. | Contact Name & Address                                     | Telephone #    | Fax #          | E-mail Address                 |
|----|--|----------------|----------------|--------------------------------|
|    | Suzanne Wolf<br>1 Rockwood Road<br>Sleepy Hollow, NY 10591 | (914) 846-3508 | (914) 846-4487 | Suzanne_M_Wolf@newyorklife.com |

|           |                              |  |
|-----------|------------------------------|--|
| <b>5.</b> | <b>Requested Filing Mode</b> | <input checked="" type="checkbox"/> Review & Approval <input type="checkbox"/> File & Use <input type="checkbox"/> Informational<br><input type="checkbox"/> Combination (please explain): _____<br><input type="checkbox"/> Other (please explain): _____ |
|-----------|------------------------------|--|

|           |                                |         |
|-----------|--------------------------------|---------|
| <b>6.</b> | <b>Company Tracking Number</b> | 208-190 |
|-----------|--------------------------------|---------|

|           |  |                       |
|-----------|--|-----------------------|
| <b>7.</b> | <input checked="" type="checkbox"/> <b>New Submission</b> <input type="checkbox"/> <b>Resubmission</b> | Previous file # _____ |
|-----------|--|-----------------------|

|           |               |  |
|-----------|---------------|--|
| <b>8.</b> | <b>Market</b> | <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Franchise<br><br><input type="checkbox"/> Small <input type="checkbox"/> Large <input type="checkbox"/> Small and Large<br><br><input type="checkbox"/> Employer <input type="checkbox"/> Association <input type="checkbox"/> Blanket<br><input type="checkbox"/> Discretionary <input type="checkbox"/> Trust<br><input type="checkbox"/> Other: _____ |
|-----------|---------------|--|

|           |                          |   |
|-----------|--------------------------|---|
| <b>9.</b> | <b>Type of Insurance</b> | A03I Individual Annuities-Deferred Variable Benefit |
|-----------|--------------------------|---|

|            |  |                           |
|------------|--|---------------------------|
| <b>10.</b> | <b>Product Coding Matrix Filing Code</b> | A03I.002 Flexible Premium |
|------------|--|---------------------------|

|  |   |   |  |  |                                      |  |   |                                      |   |                                |  |  |  |   |   |  |  |  |  |  |  |
|--|---|---|--|--|--------------------------------------|--|---|--------------------------------------|---|--------------------------------|--|--|--|---|---|--|--|--|--|--|--|
| <b>11.</b>   | <b>Submitted Documents</b>                            | <p><input checked="" type="checkbox"/> <b>FORMS</b></p> <table style="width: 100%;"> <tr> <td><input checked="" type="checkbox"/> Policy</td> <td><input type="checkbox"/> Outline of Coverage</td> <td><input type="checkbox"/> Certificate</td> </tr> <tr> <td><input checked="" type="checkbox"/> Application/Enrollment</td> <td><input checked="" type="checkbox"/> Rider/Endorsement</td> <td><input type="checkbox"/> Advertising</td> </tr> <tr> <td><input type="checkbox"/> Schedule of Benefits</td> <td><input type="checkbox"/> Other</td> <td></td> </tr> </table> <p><b>Rates</b></p> <p><input type="checkbox"/> New Rate      <input type="checkbox"/> Revised Rate</p> <p><input type="checkbox"/> <b>FILING OTHER THAN FORM OR RATE:</b><br/>Please explain: _____</p> <p><b>SUPPORTING DOCUMENTATION</b></p> <table style="width: 100%;"> <tr> <td><input type="checkbox"/> Articles of Incorporation</td> <td><input type="checkbox"/> Third Party Authorization</td> </tr> <tr> <td><input type="checkbox"/> Association Bylaws</td> <td><input type="checkbox"/> Trust Agreements</td> </tr> <tr> <td><input checked="" type="checkbox"/> Statement of Variability</td> <td><input checked="" type="checkbox"/> Certifications</td> </tr> <tr> <td><input checked="" type="checkbox"/> Actuarial Memorandum</td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/> Other _____ <b>Filing Fee Form</b></td> <td></td> </tr> </table> | <input checked="" type="checkbox"/> Policy | <input type="checkbox"/> Outline of Coverage | <input type="checkbox"/> Certificate | <input checked="" type="checkbox"/> Application/Enrollment | <input checked="" type="checkbox"/> Rider/Endorsement | <input type="checkbox"/> Advertising | <input type="checkbox"/> Schedule of Benefits | <input type="checkbox"/> Other |  | <input type="checkbox"/> Articles of Incorporation | <input type="checkbox"/> Third Party Authorization | <input type="checkbox"/> Association Bylaws | <input type="checkbox"/> Trust Agreements | <input checked="" type="checkbox"/> Statement of Variability | <input checked="" type="checkbox"/> Certifications | <input checked="" type="checkbox"/> Actuarial Memorandum |  | <input checked="" type="checkbox"/> Other _____ <b>Filing Fee Form</b> |  |
| <input checked="" type="checkbox"/> Policy                             | <input type="checkbox"/> Outline of Coverage          | <input type="checkbox"/> Certificate  |  |  |                                      |  |   |                                      |   |                                |  |  |  |   |   |  |  |  |  |  |  |
| <input checked="" type="checkbox"/> Application/Enrollment             | <input checked="" type="checkbox"/> Rider/Endorsement | <input type="checkbox"/> Advertising  |  |  |                                      |  |   |                                      |   |                                |  |  |  |   |   |  |  |  |  |  |  |
| <input type="checkbox"/> Schedule of Benefits                          | <input type="checkbox"/> Other                        |   |  |  |                                      |  |   |                                      |   |                                |  |  |  |   |   |  |  |  |  |  |  |
| <input type="checkbox"/> Articles of Incorporation                     | <input type="checkbox"/> Third Party Authorization    |   |  |  |                                      |  |   |                                      |   |                                |  |  |  |   |   |  |  |  |  |  |  |
| <input type="checkbox"/> Association Bylaws                            | <input type="checkbox"/> Trust Agreements             |   |  |  |                                      |  |   |                                      |   |                                |  |  |  |   |   |  |  |  |  |  |  |
| <input checked="" type="checkbox"/> Statement of Variability           | <input checked="" type="checkbox"/> Certifications    |   |  |  |                                      |  |   |                                      |   |                                |  |  |  |   |   |  |  |  |  |  |  |
| <input checked="" type="checkbox"/> Actuarial Memorandum               |   |   |  |  |                                      |  |   |                                      |   |                                |  |  |  |   |   |  |  |  |  |  |  |
| <input checked="" type="checkbox"/> Other _____ <b>Filing Fee Form</b> |   |   |  |  |                                      |  |   |                                      |   |                                |  |  |  |   |   |  |  |  |  |  |  |

|   |                                     |   |   |
|---|-------------------------------------|---|---|
| 12.   | <b>Filing Submission Date</b>       | <b>October 2, 2008</b>  |   |
| 13  | <b>Filing Fee (If required)</b>     | Amount <u>    \$150.00    </u>  | Check Date <u>    EFT sent on 10/1/2008    </u> |
|   |                                     | Retaliatory <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Check Number <u>    Sent via EFT    </u>        |
| 14.   | <b>Date of Domiciliary Approval</b> | <b>Pending</b>  |   |
| 15.   | <b>Filing Description:</b>          |   |   |
| <p><b><u>Please see attached cover letter submitted with this SERFF filing.</u></b></p> <p>I am enclosing for your approval three new individual deferred variable annuity policies, four new applications that will be used to apply for these policies, four revised riders and one new rider. These policies and related forms will be issued by New York Life Insurance and Annuity Corporation (NYLIAC).</p> <p>Proceeds under the policy forms may accumulate on either a “fixed” or “variable” basis, or a combination of both. These new policies consolidate various product features currently offered under multiple products (policy form numbers). This consolidation simplifies our variable annuity offerings in order to 1) enhance client understanding of how the products work and which best suits their needs; 2) facilitate agent training on our products and 3) help make our sales promotion efforts more straightforward. Once approved, the new policies and riders will replace those previously approved by your Department where applicable. In addition, the fixed account in each policy form will use a guaranteed minimum interest rate (GMIR) that is <b>not</b> determined based on the nonforfeiture rate formula as defined under your state’s nonforfeiture law. This rate will be less than the nonforfeiture rate and set for the life of the policy. It is subject to change from time to time for new issues only and will be administered in a nondiscriminatory manner. A range for this rate is provided in the accompanying statements of variability. The nonforfeiture rate is based on a methodology, which is provided in the statement of variability and actuarial memorandum for each contract. This rate will be determined every six months and will apply only to new issues. Because the GMIR is not equal to and set at a lower rate than the nonforfeiture rate, we have included definitions of the guaranteed cash surrender value for the fixed account, and if applicable, the DCA Advantage account, and of the nonforfeiture rate and the nonforfeiture value. These definitions explain how the guaranteed cash surrender value, the nonforfeiture rate and nonforfeiture values are determined. Upon surrender of the policy, the client will receive no less than the guaranteed cash surrender value, as defined in the policy, in addition to any available surrender value from the investment divisions. Policy forms 208-191 and 208-192 also include innovative features that will allow applicants to select options best suited to their particular needs.</p> <p>The enclosed policy and rider forms will primarily be available for the “non tax-qualified” market, and for the “tax-qualified market”: 403(b), “Tax-Sheltered Annuity” plans (school systems, hospitals, etc.), the Individual Retirement Annuity (IRA) market including Simplified Employee Pension (SEP), Inherited IRA, Roth IRA and SIMPLE IRA plans and 401(a) Pension plans.</p> <p>Additional information regarding these forms is provided below and the charts that follow this letter list all forms that will be used with these new products and those forms that will be replaced by these new products.</p> <p>Please note that the company has not yet finalized the marketing names for the new products, sold via policy forms 208-191 and 208-192. As such, the current names that are provided on each application and policy are only placeholders and will be replaced before the products are made available.</p> |                                     |   |   |

|   |                             |             |  |
|---|-----------------------------|-------------|--|
| 16.   | Certification (If required) |             |  |
| I HEREBY CERTIFY that I have reviewed the applicable filing requirements for this filing, and the filing complies with all applicable statutory and regulatory provisions for the state of _____. |                             |             |  |
| Print Name _____  |                             | Title _____ |  |
| Signature _____   |                             | Date: _____ |  |

|   |                               |         |
|---|-------------------------------|---------|
| <b>17.</b>  | <b>Form Filing Attachment</b> |         |
| <b>This filing transmittal is part of company tracking number</b>     |                               | 208-190 |
| <b>This filing corresponds to rate filing company tracking number</b> |                               |         |

|    | <b>Document Name</b>                                 | <b>Form Number</b> |   | <b>Replaced Form Number</b>         |
|----|--|--------------------|---|-------------------------------------|
|    | <b>Description</b>                                   |                    |   | <b>Previous State Filing Number</b> |
| 01 | Flexible Premium Deferred Variable Annuity<br>Policy | 208-190            | <input type="checkbox"/> Initial<br><input checked="" type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ | 204-191                             |
| 02 | Flexible Premium Deferred Variable Annuity<br>Policy | 208-191            | <input checked="" type="checkbox"/> Initial<br><input type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ |                                     |
| 03 | Flexible Premium Deferred Variable Annuity<br>Policy | 208-192            | <input checked="" type="checkbox"/> Initial<br><input type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ |                                     |
| 04 | Deferred Variable Annuity<br>Application             | 208-594            | <input checked="" type="checkbox"/> Initial<br><input type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ |                                     |
| 05 | Deferred Variable Annuity<br>Application             | 208-598            | <input checked="" type="checkbox"/> Initial<br><input type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ |                                     |
| 06 | Deferred Variable Annuity<br>Application             | 208-599            | <input checked="" type="checkbox"/> Initial<br><input type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ |                                     |
| 07 | Deferred Variable Annuity<br>Application             | 208-600            | <input checked="" type="checkbox"/> Initial<br><input type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ |                                     |
| 08 | Investment Protection Plan<br>Rider                  | 999-302 (11/2008)  | <input type="checkbox"/> Initial<br><input checked="" type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ | 999-302                             |
| 09 | Annual Death Benefit Reset<br>Rider                  | 203-305 (11/2008)  | <input type="checkbox"/> Initial<br><input checked="" type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ | 203-305 (8/2004)                    |
| 10 | Enhanced Beneficiary Benefit<br>Rider                | 203-304 (11/2008)  | <input type="checkbox"/> Initial<br><input checked="" type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ | 201-304 and 203-304                 |
| 11 | Enhanced Spousal Continuance<br>Rider                | 203-303 (11/2008)  | <input type="checkbox"/> Initial<br><input checked="" type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ | 201-303 and 203-303                 |
| 12 | Breakpoint Credit<br>Rider                           | 209-311            | <input checked="" type="checkbox"/> Initial<br><input type="checkbox"/> Revised<br><input type="checkbox"/> Other _____ |                                     |

| 18.  |               | Rate Filing Attachment |   |                              |
|--|---------------|------------------------|---|------------------------------|
| This filing transmittal is part of company tracking number     |               |                        |   |                              |
| This filing corresponds to form filing company tracking number |               |                        |   |                              |
| Overall percentage rate indication (when applicable)           |               |                        |   |                              |
| Overall percentage rate impact for this filing                 |               | %                      |   |                              |
|  | Document Name | Affected Form Numbers  |   | Previous State Filing Number |
|  | Description   |                        |   |                              |
| 01   |               |                        | <input type="checkbox"/> New<br><input type="checkbox"/> Revised<br>Request + ___% - ___%<br><input type="checkbox"/> Other _____ |                              |
| 02   |               |                        | <input type="checkbox"/> New<br><input type="checkbox"/> Revised<br>Request + ___% - ___%<br><input type="checkbox"/> Other _____ |                              |
| 03   |               |                        | <input type="checkbox"/> New<br><input type="checkbox"/> Revised<br>Request + ___% - ___%<br><input type="checkbox"/> Other _____ |                              |
| 04   |               |                        | <input type="checkbox"/> New<br><input type="checkbox"/> Revised<br>Request + ___% - ___%<br><input type="checkbox"/> Other _____ |                              |
| 05   |               |                        | <input type="checkbox"/> New<br><input type="checkbox"/> Revised<br>Request + ___% - ___%<br><input type="checkbox"/> Other _____ |                              |
| 06   |               |                        | <input type="checkbox"/> New<br><input type="checkbox"/> Revised<br>Request + ___% - ___%<br><input type="checkbox"/> Other _____ |                              |
| 07   |               |                        | <input type="checkbox"/> New<br><input type="checkbox"/> Revised<br>Request + ___% - ___%<br><input type="checkbox"/> Other _____ |                              |
| 08   |               |                        | <input type="checkbox"/> New<br><input type="checkbox"/> Revised<br>Request + ___% - ___%<br><input type="checkbox"/> Other _____ |                              |
| 09   |               |                        | <input type="checkbox"/> New<br><input type="checkbox"/> Revised<br>Request + ___% - ___%<br><input type="checkbox"/> Other _____ |                              |
| 10   |               |                        | <input type="checkbox"/> New<br><input type="checkbox"/> Revised<br>Request + ___% - ___%<br><input type="checkbox"/> Other _____ |                              |

LH RFA-1



**NEW YORK LIFE INSURANCE COMPANY**  
**NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**

(A Delaware Corporation)  
 1 Rockwood Road, Sleepy Hollow, NY 10591

"The Company You Keep"®

Suzanne M. Wolf  
 Assistant Vice President - Product Compliance  
 Bus: (914) 846-3508 Fax: (914) 846-4487 Toll Free: (800) 280-3551  
 E-Mail: Suzanne\_M\_Wolf@newyorklife.com

October 21, 2008

Ms. Linda Bird  
 Department of Insurance  
 1200 W. Third Street  
 Little Rock, AR 72201-1904

**RE: NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION**

N.A.I.C. NO.: 826-91596  
 F.E.I.N.: 13-3044743  
 State Tracking # 40425

|                   |                                      |             |
|-------------------|--------------------------------------|-------------|
| Form No.: 208-190 | Individual Deferred Variable Annuity | Contract    |
| 208-191           | Individual Deferred Variable Annuity | Contract    |
| 208-192           | Individual Deferred Variable Annuity | Contract    |
| 208-594           | Individual Deferred Variable Annuity | Application |
| 208-598           | Individual Deferred Variable Annuity | Application |
| 208-599           | Individual Deferred Variable Annuity | Application |
| 208-600           | Individual Deferred Variable Annuity | Application |
| 203-304 (11/2008) | Enhanced Beneficiary Benefit         | Rider       |
| 203-303 (11/2008) | Enhanced Spousal Continuance         | Rider       |
| 203-305 (11/2008) | Annual Death Benefit Reset           | Rider       |
| 999-302 (11/2008) | Investment Protection Plan           | Rider       |
| 209-311           | Breakpoint Credit                    | Rider       |

Dear Ms. Bird:

This is in response to your objection letter dated October 13, 2008.

I certify that Regulation 6 has been reviewed and the company is in compliance with this regulation.

We hope that this response is satisfactory and that we may receive your Department's approval at your earliest convenience.

Sincerely,

Suzanne M. Wolf  
 Assistant Vice President – Product Compliance  
 SMW: gd