

InNAVation

**THIS IS A CLAIMS MADE AND REPORTED POLICY.
CLAIM EXPENSES ARE WITHIN AND REDUCE THE LIMIT OF LIABILITY.
PLEASE READ THE ENTIRE POLICY CAREFULLY.**

ERRORS AND OMISSIONS POLICY

Words and phrases that appear in **bold** print have special meanings that are defined in Section III., DEFINITIONS.

I. INSURING AGREEMENTS

A. Coverage

The **Company** will pay on behalf of the **Insured** all sums in excess of the deductible that the **Insured** becomes legally obligated to pay as **damages** and **claim expenses** as a result of a **claim** first made against the **Insured** and reported in writing to the **Company** during the **policy period** or **Extended Reporting Period** (if applicable), by reason of an act or omission including **personal injury** in the performance of **professional services** by the **Insured** or by someone for whom the **Insured** is legally responsible, provided that:

1. Such act or omission was committed on or subsequent to the **retroactive date** specified in Item 8. in the Declarations; and
2. Prior to the inception date of this policy and if continuously renewed, no **Insured** had a basis to believe that any such act or omission, or related act or omission, might reasonably be expected to be the basis of a **claim**.

B. Defense

The **Company** has the right and duty to defend any **claim** against the **Insured** even if any of the allegations of the **claim** are groundless, false or fraudulent. Defense counsel may be designated by the **Company** or, at the **Company's** option, by the **Insured** with the **Company's** written consent and subject to the **Company's** guidelines.

C. Settlement

The **Company** will have the right to make, with the consent of the **Named Insured**, any settlement of a **claim** under this policy. If the **Named Insured** refuses to consent to a settlement within the policy's applicable limit of liability that is recommended by the **Company** and acceptable to the claimant, then the **Company's** limit of liability under this policy will be reduced to the sum of the amount of **damages** for which the **claim** could have been settled, plus all **claim expenses** incurred up to the time the **Company** made its recommendation (the "Reduced Limit of Liability"). In addition, if the Reduced Limit of Liability is exhausted, the **Company** will pay fifty percent (50%) of all **claim expenses** and **damages** incurred thereafter, subject at all times to the applicable limit of liability as specified in Section II.A, Limit of Liability - Each **Claim** and Section II.B., Limit of Liability - Policy Aggregate.

D. Exhaustion of Limits

The **Company** is not obligated to pay any **damages** or **claim expenses** or to defend or continue to defend any **claim** after the applicable limit of liability has been exhausted by the payment of **damages** or **claim expenses** or any combination thereof; or after the **Company** has deposited the remaining available limit of liability into a court of competent jurisdiction or tendered the remaining available limit of liability to the **Named Insured** or, if applicable, to the excess insurer(s) of the **Named Insured**.

II. LIMITS OF LIABILITY AND DEDUCTIBLE

A. Limit of Liability - Each Claim

Subject to paragraph B. below, the **Company's** limit of liability for **damages** and **claim expenses** for each **claim** first made and reported in writing to the **Company** during the **policy period** will not exceed the amount shown in Item 4. in the Declarations for "Each **Claim**."

B. Limit of Liability - Policy Aggregate

The **Company's** limit of liability for **damages** and **claim expenses** for all **claims** first made and reported in writing to the **Company** during the **policy period** will not exceed the aggregate amount shown in Item 4. in the Declarations as the "Policy Aggregate."

C. Deductible

The deductible amount shown in Item 5. in the Declarations is the **Insured's** obligation for each **claim** and applies to the payment of **damages** and **claim expenses**. The deductible will be paid by the **Named Insured**. The limits of liability set forth in the Declarations are in addition to and in excess of the deductible.

D. Early Claim Resolution Incentive

If a **claim** is resolved by agreement, with the consent of the **Named Insured** and the **Company**, as reflected in a settlement agreement, order, dismissal, or judgement, within one (1) year following the date that the **claim** is reported in writing to the **Company**, the **Named Insured** will be reimbursed or credited fifty percent (50%) of the deductible, but not to exceed a maximum reimbursement of \$25,000 per **policy period** for all such **claims** resolved or concluded in accordance with this paragraph D.

E. Multiple Insureds, Claims and Claimants

The limits of liability shown in the Declarations is the maximum amount the **Company** will pay under this policy for **damages** and **claim expenses** regardless of the number of **Insureds**, **claims** made or claimants. **Related claims** made against the **Insured** and reported in writing to the **Company** under this policy or under any renewal of this policy will be considered a single **claim** first made and reported to the **Company** during the **policy period** in which the earliest of the **related claims** was first made and reported in writing to the **Company**.

F. Supplementary Payments

Supplementary payments are not subject to the deductible and are in addition to the limits of liability.

1. The **Company** will pay up to \$250.00 for loss of earnings to the **Insured** for each day or part of a day the **Insured** is in attendance, at the **Company's** request, at a trial, hearing, mediation or arbitration proceeding involving a **claim** against the **Insured**. The maximum amount payable, regardless of the number of trials, hearings, mediations or arbitration proceedings or the number of **Insureds** shall be \$5,000 per **policy period**.
2. The **Company** will reimburse the **Insured** for reasonable attorneys' fees, costs and expenses incurred in responding to a disciplinary proceeding that is both first brought by a licensing authority against the **Insured** and reported in writing to the **Company** during the **policy period** by reason of an act or omission in the performance of **Professional Services**. The maximum amount payable, regardless of the number of disciplinary proceedings or the number of **Insureds**, shall be \$5,000 per **policy period**. The **Company** shall not be obligated to defend any disciplinary proceeding, or pay any fine, penalty or award resulting from any disciplinary proceeding.

G. Subpoena Expenses

The **Company** will pay expenses incurred while assisting the **Insured** in responding to a subpoena which the **Insured** first receives and reports in writing to the **Company** during the **policy period** resulting from the performance of **professional services** by the **Insured**. The maximum amount payable regardless of the number of subpoenas or number of **Insureds** shall be \$5,000 per **policy period**, provided that all subpoenas arising out of **related claims** shall be deemed to constitute a single subpoena.

III. DEFINITIONS

Bodily injury means physical injury, sickness or disease sustained by any person including death resulting from any of these at any time. **Bodily injury** also means mental illness, mental anguish, or emotional distress, pain or suffering, or shock sustained by that person, whether or not resulting from physical injury, sickness, disease or death of any person.

Claim means a demand for money or services naming the **Insured** arising out of an act or omission in the performance of **professional services**. A **claim** also includes the service of suit or the institution of an arbitration proceeding against the **Insured**.

Claim expenses means:

1. Fees charged by attorneys designated by the **Company** or designated by the **Insured** with the **Company's** prior written consent;
2. All other reasonable and necessary fees, costs and expenses resulting from the investigation, adjustment, negotiation, arbitration, mediation, defense or appeal of a **claim**, if incurred by the **Company** or by the **Insured** with the **Company's** prior written consent; and
3. Premiums on appeal bonds, attachment bonds or similar bonds. However, the **Company** is not obligated to apply for or furnish any such bond.

Claim expenses will be paid first and will reduce the limit of liability available to pay **damages**. **Claim expenses** do not include fees, costs or expenses of employees or officers of the **Company**, or salaries, loss of earnings or other remuneration by or to any **Insured**.

Company means the insurance company named in the Declarations.

Damages means any compensatory sum and includes a judgement, award or settlement, provided any settlement is negotiated with the **Company's** written consent. **Damages** also includes punitive or exemplary amounts, to the extent such amounts are insurable under applicable law.

Damages do not include:

1. The return, reduction or restitution of fees, expenses or costs for **professional services** performed or to be performed by the **Insured**;
2. Fines, penalties, forfeitures or sanctions;
3. The multiplied portion of any multiplied awards; or
4. Injunctive or declaratory relief.

Insured means the **Named Insured** and any of the persons or entities listed below but only while in the performance of **professional services** on behalf of the **Named Insured** for clients of the **Named Insured**:

1. Any **subsidiary** or **newly acquired subsidiary**;
2. Any present or former partner, member, officer, director or employee of the **Named Insured**, a **subsidiary** or a **newly acquired subsidiary**;

3. Independent contractors but only for **professional services** performed on behalf and at the direction of the **Named Insured** and the **Named Insured** has agreed to provide insurance for the independent contractor's **professional services**;
4. Any leased employee but only while acting under the direct supervision and exclusively on behalf of the **Named Insured**.
5. The estate, heirs, executors, administrators, assigns and legal representatives of an **Insured** in the event of such **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would have been provided coverage under this policy.

Named Insured means the persons or entities specified in Item 1. in the Declarations.

Newly acquired subsidiary means any entity newly formed or acquired by the **Named Insured** during the **policy period** in which the **Named Insured** has more than fifty percent (50%) of the legal or beneficial interest, but only upon the conditions that:

1. Within sixty (60) days of such formation or acquisition, the **Named Insured** has provided the **Company** with full particulars of such **newly acquired subsidiary** and the **Company** has agreed in writing to insure such **newly acquired subsidiary**, but the **Company** shall not be required to insure such **newly acquired subsidiary**;
2. The **Named Insured** has paid the additional premium, if any, charged by the **Company** and has agreed to any amendment of the provisions of this policy; and
3. The **Company** will only provide coverage with respect to a **claim** arising out of an act or omission in the performance of **professional services** when the act or omission is committed on or after the date such **newly acquired subsidiary** became a **newly acquired subsidiary** and prior to the date such **newly acquired subsidiary** ceased to be a **newly acquired subsidiary**. An entity ceases to be a **newly acquired subsidiary** under this policy on the date during the **policy period** that the **Named Insured's** legal or beneficial interest in such entity becomes less than fifty percent (50%).

Personal injury means injury other than **bodily injury** arising out of one or more of the following offenses by reason of an act or omission in the performance of **professional services**:

1. False arrest, detention or imprisonment;
2. Malicious prosecution;
3. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;
4.
 - a. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - b. Oral or written publication, in any manner, of material that violates a person's right of privacy; except oral or written publication, in any manner which arises out of advertising, broadcasting or telecasting activities conducted by or on behalf of any **Insured**.

Policy period means the period of time from the effective date shown in Item 3. in the Declarations to the earliest of the date of termination, expiration or cancellation of this policy.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Property damage means:

1. Physical Injury to tangible property, including all resulting loss of use of that property; or

2. Loss of use of tangible property that is not physically injured.

Professional services means those services specified in Item 7. in the Declarations performed by an **Insured** for others for a fee.

Related claims means all **claims** arising out of a single act or omission or related acts or omissions in the performance of **professional services**.

Retroactive date means the date shown in Item 8. in the Declarations, on or after which an act or omission must have been committed for coverage under this policy to apply.

Subsidiary means any entity of which the **Named Insured** owns, either legally or beneficially, more than a fifty percent (50%) interest in such entity. On the date during the **policy period** that the **Named Insured's** legal or beneficial ownership interest in such entity becomes less than fifty percent (50%), such entity will cease to be a **subsidiary** under this policy. In such event, coverage will be provided under this policy, but only with respect to acts or omissions committed prior to such date in accordance with all other terms and conditions of this policy. No coverage will be afforded under this policy with respect to **claims** made against an **Insured** based on any act or omission that was committed on or subsequent to such date.

IV. EXCLUSIONS

This policy does not apply to any **claim**:

- A. Based on or arising out of any dishonest, intentionally wrongful, fraudulent, criminal or malicious act or omission by an **Insured**. The **Company** will provide the **Insured** with a defense of such **claim** unless and until such dishonest, intentionally wrongful, fraudulent, criminal or malicious act or omission has been determined by any final adjudication, finding of fact or admission by the **Insured**. Such defense will not waive any of the **Company's** rights under this policy. Upon establishment that the dishonest, intentionally wrongful, fraudulent, criminal or malicious act or omission by an **Insured** was committed, the **Company** will have the right to seek recovery of the defense costs incurred from the **Insured** found to have committed the acts or omissions.
- B. Based on or arising out of **bodily injury** or **property damage**;
- C. Based on or arising out of discrimination, humiliation, harassment, or misconduct including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual preference. The **Company** will provide the **Insured** with a defense of such **claim** and pay **claim expenses** for any suit which is brought alleging such discrimination as a single allegation in a multiple allegation suit, provided any one allegation is covered under this policy;
- D. Based on or arising out of **professional services** performed for or by any business enterprise not named in Item 1. in the Declarations if on or after the date or time of the act or omission giving rise to such **claim**:
 1. Any **Insured** controlled, owned, operated or managed such entity; or
 2. Any **Insured** was an owner, partner, member, director, officer or employee of such entity.

Control of or ownership in a business enterprise is presumed if any **Insured** owned or held ten percent (10%) or more of the equity and/or debt instruments of such enterprise;
- E. By or on behalf of an **Insured** under this policy against any other **Insured** hereunder;
- F. Based on or arising out of actual or alleged violation of:
 1. The Employee Retirement Income Security Act of 1974;
 2. The Securities Act of 1933;
 3. The Securities Exchange Act of 1934;

4. Any state Blue Sky or Securities law;

or any rules, regulations or amendments issued in relation to such acts, or any similar state or federal statutes or regulations, including any **claim** based upon common law principles of liability;

G. Based on or arising out of, whether suddenly or over a long period of time:

1. The actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of **pollutants**; or
2. Any injury, damage, payments, costs or expense incurred as a result of any testing for, monitoring, removal, containment, treatment, detoxification, neutralization or cleanup of **pollutants**.

H. Based on or arising out of liability of others assumed by the **Insured** under any contract or agreement, unless such liability would have attached to the **Insured** even in the absence of such contract or agreement;

I. Based on or arising out of the gaining of any personal profit or advantage to which the **Insured** is not legally entitled;

J. Based on or arising out of any actual or alleged anti-trust law violation or any agreement or conspiracy to restrain trade;

K. Based on arising out of or related to actual or alleged misappropriation of trade secret or infringement of patent, copyright, trademark, trade dress or any other intellectual property right.

V. CONDITIONS

A. Reporting of Claims and Potential Claims:

1. The **Insured**, as a condition precedent to the obligations of the **Company** under this policy, will give written notice to the **Company** as soon as reasonably possible during the **policy period** of any **claim** made against the **Insured**.

The **Company** further agrees that the **Insured** may have up to, but not to exceed, sixty (60) days after the policy expiration to report in writing to the **Company** a **claim** made against the **Insured** during the **policy period**, if the reporting of such **claim** is as soon as reasonably possible.

2. If during the **policy period**, any **Insured** becomes aware of any act or omission which may reasonably be expected to be the basis of a **claim** against any **Insured**, including but not limited to any notice, advice or threat, whether written or verbal, that any person or entity intends to hold the **Insured** responsible for any alleged act or omission and gives written notice to the **Company** with all available particulars, including:
 - a. The specific act or omission;
 - b. The dates and persons involved;
 - c. The identity of anticipated or possible claimants;
 - d. The circumstances by which the **Insured** first became aware of the possible **claim**; and
 - e. Potential damages or injury;

then any **claim** that is subsequently made against the **Insured** arising out of such act or omission will be deemed to have been made on the date such written notice was received by the **Company**. Said documents and information should be mailed or emailed to the **Company** at the mailing address or email address below:

B. Assistance and Cooperation

1. The **Insured** will cooperate with the **Company** and upon the **Company's** request, attend hearings, depositions and trials and assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits and proceedings in connection with a **claim**.
2. The **Insured** will assist in the enforcement of any right of contribution or indemnity against any person or organization who or which may be liable to any **Insured** in connection with a **claim**.
3. The **Insured** will not, except at the **Insured's** own cost, voluntarily make any payment, assume or admit any liability or incur any expense without the prior written consent of the **Company**.

C. Action against the Company

1. No action may be brought against the **Company** unless, as a condition precedent thereto:
 - a. The **Insured** has fully complied with all the terms of this policy; and
 - b. Until the amount of the **Insured's** obligation to pay has been finally determined either by judgement against the **Insured** after actual trial and appeal or by written agreement of the **Insured**, the claimant and the **Company**.
2. Nothing contained in this policy will give any person or organization the right to join the **Company** as a defendant or co-defendant or other party in any action against the **Insured** to determine the **Insured's** liability.

D. Bankruptcy

Bankruptcy or insolvency of the **Insured** or of the **Insured's** estate will not relieve the **Company** of any of its obligations hereunder.

E. Other Insurance

Such insurance as is provided by this policy shall be excess of any other valid and collectible insurance.

F. Subrogation

In the event of any payment for any **claim** under this policy, the **Company** will be subrogated in the amount of such payment to all the **Insured's** rights of recovery against any person or organization. The **Insured** will execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** will do nothing to prejudice such rights.

G. Changes

Notice to any agent of the **Company** or knowledge possessed by any such agent or by any other person will not effect a waiver or a change in any part of this policy, and will not prevent or preclude the **Company** from asserting or invoking any right or provision of this policy. None of the provisions of this policy will be waived, changed or modified except by a written endorsement issued by the **Company** to form a part of this policy.

H. Cancellation/Nonrenewal

1. This policy may be cancelled by the **Named Insured** by returning it to the **Company**. The **Named Insured** may also cancel this policy by giving written notice to the **Company** stating at what future date cancellation is to be effective.
2. The **Company** may cancel or nonrenew this policy by sending written notice to the **Named Insured** at the address last known to the **Company**. The **Company** will provide written notice at least sixty (60) days before cancellation or nonrenewal is to be effective. However, if the **Company** cancels this policy because the **Insured** has failed to pay a premium when due, this policy may be canceled by the **Company** by mailing to the **Named Insured** written notice stating when, not less than ten (10) days thereafter, such cancellation will be effective. The time of surrender of the policy or the effective date and hour of cancellation stated in the notice will become the end of the **policy period**. Delivery of such written notice either by the **Named Insured** or by the **Company** will be equivalent to mailing.
3. If the **Company** cancels this policy, the earned premium will be computed pro rata. If the **Named Insured** cancels this policy, the **Company** will retain the customary short rate proportion of the premium. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.
4. The offering of terms and conditions different from the expiring terms and conditions, including limits of liability, deductible or premium, shall not constitute a refusal to renew or a cancellation of this policy.

I. Territory

This policy applies to an act or omission taking place anywhere in the world provided that any suit is brought against the **Insured** within the United States of America, its territories or possessions, Puerto Rico or Canada.

This policy shall not apply to any risk which would be in violation of the laws of the United States including, but not limited to, U.S. economic or trade sanction laws or export control laws administered by the U.S. Treasury, State, and Commerce Department.

J. Named Insured Sole Agent

The **Named Insured** will be the sole agent and will act on behalf of all **Insureds** for the purpose of giving or receiving any notices, any amendments to or cancellation of this policy, for the completing of any applications and the making of any statements, representations and warranties, for the payment of any premium and the receipt of any return premium that may become due under this policy, for the payment of the deductible and the exercising or declining to exercise any right under this policy including the purchase of an **extended reporting period**.

K. Entire Contract

By acceptance of this policy the **Insured** warrants that:

1. All of the information and statements provided to the **Company** by the **Insured**, including but not limited to, the application and any supplemental information, are true, accurate and complete and will be deemed to constitute material representations made by the **Insured**;
2. This policy is issued in reliance upon the **Insured's** representations;
3. This policy, endorsements thereto, together with the completed and signed application and any and all supplementary information and statements provided by the **Insured** to the **Company** (all of which are attached hereto and deemed to be incorporated herein) embody all of the agreements existing between the **Insured** and the **Company** and shall constitute the entire contract between the **Insured** and the **Company**; and

4. Any material misrepresentation or concealment by the **Insured** or the **Insured's** agent will render the policy null and void and relieve the **Company** from all liability herein.

L. Notices

Any notices required to be given by the **Insured** will be submitted in writing to the **Company** or its authorized representative at the address specified in the Declarations. If mailed, the date of mailing of such notice will be deemed to be the date such notice was given and proof of mailing will be sufficient proof of notice.

M. Assignment

No assignment of interest of the **Insured** under this policy is valid, unless the **Company's** written consent is endorsed hereon.

N. Innocent Insureds

Whenever coverage under this policy would be excluded because of dishonest, intentionally wrongful, fraudulent, criminal or malicious acts or omissions, the **Company** agrees that such insurance as would otherwise be afforded under this policy will be applicable with respect to those **Insureds** who did not personally participate or personally acquiesce in or remain passive after having knowledge of such conduct. Each **Insured** must promptly comply with all provisions of this policy upon learning of any concealment.

VI. EXTENDED REPORTING PERIODS

Extended Reporting Period means the period of time after the end of the **policy period** for reporting **claims** to the **Company** that are made against the **Insured** during the applicable **Extended Reporting Period** by reason of an act or omission, which was committed prior to the end of the **policy period** and on or subsequent to the **retroactive date**, and is otherwise covered by this policy.

A. Automatic Extended Reporting Period

If this policy is cancelled or nonrenewed by either the **Company** or by the **Named Insured**, the **Company** will provide to the **Named Insured** an automatic, noncancelable **Extended Reporting Period** starting at the termination of the **policy period** if the **Named Insured** has not obtained another policy of errors and omissions insurance within sixty (60) days of the termination of the **policy period**. This automatic **Extended Reporting Period** will terminate after sixty (60) days.

B. Optional Extended Reporting Period

1. If this policy is cancelled or nonrenewed by either the **Company** or by the **Named Insured**, then the **Named Insured** will have the right to purchase an optional **extended reporting period** of one or three years. Such right must be exercised by the **Named Insured** within sixty (60) days of the termination of the **policy period** by providing:
 - a. Written notice to the **Company**; and
 - b. With the written notice, the amount of additional premium described below.
2. The additional premium for the optional **extended reporting period** will be:
 - a. For a one (1) year **extended reporting period**, seventy-five percent (75%) of the annual premium for the policy; or
 - b. For a three (3) year **extended reporting period**, one hundred and fifty percent (150%) of the annual premium for the policy.
3. The first sixty (60) days of the optional **extended reporting period**, if it is purchased, shall run concurrently with the automatic **extended reporting period**.

C. Extended Reporting Period Limits of Liability

The limit of liability of the **Company** for all **claims** reported during the automatic and optional **extended reporting periods** will be part of and not in addition to the limits of liability for the **policy period** set forth in Item 4. in the Declarations.

D. Elimination of Right to Any Extended Reporting Period

There is no right to any **extended reporting period** if the **Company** cancels or refuses to renew this policy due to:

1. Nonpayment of amounts due under this policy;
2. Noncompliance by the **Insured** with any of the terms and conditions of this policy;
3. Any material misrepresentation or omission in the application or the supplementary information and statements provided by the **Insured** for this policy.

E. Extended Reporting Period - Not a New Policy

The **extended reporting period** will not be construed to be a new policy and any **claim** submitted during such period will otherwise be governed by this policy.

VII. SERVICE OF SUIT

If the **Company** fails to pay any amount claimed to be due hereunder, the **Company**, at the request of the **Insured**, will submit to the jurisdiction of any court of competent jurisdiction within the United States of America. The foregoing shall not constitute a waiver of the right of the **Company** to seek to remove, remand or transfer such suit to any other court in accordance with applicable law.

Service of process in any such suit may be made upon the **Company** through the Superintendent, Commissioner, or Director of Insurance or other person specified for that purpose in an applicable state statute.

The **Company** hereby designates the President of Navigators Specialty Insurance Company, One Penn Plaza, 32nd Floor, New York, New York 10119, as the person to whom the Superintendent, Commissioner, or Director of Insurance is authorized to mail such process or a true copy thereof, in compliance with the applicable statutes governing service of process.