

Navigators Insurance Company

GENERAL TERMS AND CONDITIONS

**THIS IS A CLAIMS-MADE POLICY
WITH COSTS OF DEFENSE INCLUDED IN THE LIMIT OF LIABILITY.
PLEASE READ THE ENTIRE POLICY CAREFULLY.**

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the insurance company shown in the Declarations (the "Insurer"), including the statements made in the **Proposal Form**, and subject to all terms, conditions and limitations of this Policy, the **Insureds** and the Insurer agree:

Section I. Defense Obligations

- A.** If ITEM 3 of the Declarations states that the "Duty to Defend" option has been elected, the Insurer will have the right and duty to defend any **Claim** against any **Insured** covered under this Policy, even if the allegations in such **Claim** are groundless, false or fraudulent. The Insurer will give consideration to the **Insureds'** preference for defense counsel, but the final decision regarding the appointment of defense counsel will rest with the Insurer. The **Insureds** will have the right, at their own expense, to associate with the Insurer in the defense of any **Claim** and the negotiation of any settlement thereof.
- B.** If ITEM 3 of the Declarations states that the "No Duty to Defend" option has been elected, the Insurer will have no duty to defend any **Claim** against any **Insured**, and it will be the duty of the **Insureds**, and not of the Insurer, to defend any **Claim**. The Insurer will have the right, but not the duty, to associate with the **Insureds** in the investigation, defense or settlement of any **Claim** to which coverage under this Policy may apply. The Insurer will advance **Costs of Defense** prior to the final disposition of any **Claim** covered by this Policy, on the condition that:
1. any applicable retention shall have been satisfied;
 2. any amounts advanced by the Insurer will reduce the Insurer's applicable Limit of Liability under any applicable Coverage Part and under this Policy to the extent such amounts are not in fact repaid; and
 3. in the event it is finally established that the Insurer has no liability under the Policy for **Loss** in connection with such **Claim**, the **Insureds** will repay the Insurer upon demand all **Costs of Defense** advanced to them or on their behalf.
- C.** Whether the "Duty to Defend" or the "No Duty To Defend" option shall have been elected, **Costs of Defense** will be part of, and not in addition to, all applicable Limits of Liability set forth in ITEM 5 of the Declarations, and the Insurer's payment of **Costs of Defense** will reduce, and may exhaust, such Limit or Limits of Liability.

Section II. Definitions

- A.** "**Claim**" will mean:
1. a written demand for monetary or non-monetary relief made against any **Insured**;

2. any written request for any **Insured** to toll or waive any potentially applicable statute of limitations; or
3. a civil, criminal, administrative or arbitration proceeding brought against any **Insured** seeking monetary or non-monetary relief and commenced by the service of a complaint or similar

pleading, the return of an indictment or criminal information, or the receipt or filing of notice of charges or similar document.

- B. "Company"** will mean the **Corporation** and any **Subsidiary**.
- C. "Corporation"** will mean the entity named in ITEM 1 of the Declarations.
- D. "Costs of Defense"** will mean reasonable and necessary legal fees, costs and expenses incurred in the investigation, defense or appeal of any **Claim**, including the costs of an appeal bond, attachment bond or similar bond; provided, however, that the Insurer will have no obligation to apply for or furnish any such bond.
- E. "Executive Officer"** shall mean any past, present or future President, Chief Executive Officer or Chief Financial Officer of the **Company**.
- F. "Financial Insolvency"** will mean any entity included within the term "**Company**" becoming a debtor in possession, or the appointment of a receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate such entity.
- G. "Foreign Jurisdiction"** means any jurisdiction, other than the United States or any of its territories or possessions.
- H. "Insured"** will have, with respect to the coverage afforded in each Coverage Part attached to and forming a part of this Policy, the meaning given to that term in such Coverage Part.
- I. "Insured Person"** will have, with respect to the coverage afforded in each Coverage Part attached to and forming a part of this Policy, the meaning given to that term in such Coverage Part.
- J. "Loss"** will mean compensatory damages, punitive or exemplary damages, the multiple portion of any multiplied damage award, settlements and **Costs of Defense**; provided, however, that **Loss** will not include salaries, wages, overhead or benefit expenses associated with any **Insured**, criminal or civil fines or penalties imposed by law, taxes, or any matter which may be deemed uninsurable under the law pursuant to which this Policy shall be construed. It is understood and agreed that the enforceability of the foregoing coverage shall be governed by such applicable law which most favors coverage for punitive or exemplary damages or the multiple portion of any multiplied damage award.
- K. "Policy Period"** will mean the period from the inception date of this Policy to the expiration date of this Policy as set forth in ITEM 2 of the Declarations, or to its earlier termination if applicable.
- L. "Proposal Form"** will mean:
1. the application or proposal form attached to and forming part of this Policy, together with any materials submitted therewith; and
 2. any applications or proposal forms submitted in connection with any policy in an uninterrupted series of policies issued by the Insurer of which this Policy is a renewal or replacement, together with any materials submitted therewith;

all of which will be retained on file by the Insurer and will be deemed to be physically attached to and form part of this Policy.

- M. **"Related Wrongful Acts"** will mean **Wrongful Acts** which are logically or causally connected by reason of any common fact, circumstance, situation, transaction, event or decision.
- N. **"Subsidiary"** will mean:
1. any entity during any time in which the **Corporation** owns, directly or indirectly, more than fifty percent (50%) of the outstanding securities or interests representing the present right to vote for the election or appointment of such entity's directors, managers, or persons occupying an equivalent position; and
 2. any joint venture during any time in which the **Corporation** owns, directly or indirectly, fifty percent (50%) or more of the outstanding securities or interests representing the present right to vote for the election or appointment of such entity's directors, managers, or persons occupying an equivalent position if, pursuant to a written agreement with the owners of such joint venture's remaining securities or interests, the **Corporation** solely controls the management and operations of such joint venture.
- O. **"Wrongful Act"** will have, with respect to the coverage afforded in each Coverage Part attached to and forming a part of this Policy, the meaning given to that term in such Coverage Part.

Section III. Discovery – Coverage Extensions

- A. In the event the Insurer refuses to renew this Policy, the **Insureds** will have the right, upon payment of seventy five percent (75%) of the annual premium, (or if the **Policy Period** is other than annual, seventy five percent (75%) of the annualized premium), to an extension of the coverage provided by this Policy with respect to any **Claim** first made against any **Insured** during the period of twelve (12) months after the end of the **Policy Period** (the "Discovery Period"), but only with respect to **Wrongful Acts** committed or attempted, or allegedly committed or attempted, before the end of the **Policy Period**. As a condition precedent to the right to purchase the Discovery Period, the total premium for this Policy must have been paid, and a written request together with payment of the appropriate premium for the Discovery Period must be provided to the Insurer no later than thirty (30) days after the end of the **Policy Period**. The purchase of the Discovery Period will not in any way increase any Limit of Liability, or create a separate or additional Limit of Liability, applicable to any Coverage Part or to this Policy as a whole, and the limits of liability with respect to **Claims** made during the Discovery Period will be part of, and not in addition to, the applicable Limit or Limits of liability as set forth in ITEM 5 of the Declarations.
- B. In the event of the death, incapacity or bankruptcy of any **Insured Person**, a **Claim** against such **Insured Person's** estate, heirs, legal representatives or assigns for a **Wrongful Act** committed or attempted, or allegedly committed or attempted, by such **Insured Person** will be deemed to be a **Claim** against such **Insured Person**.
- C. Subject to all other terms, conditions and limitations of and endorsements to this Policy, the coverage provided under this Policy to **Insured Persons** will be extended also to apply to the lawful spouses or domestic partners of the **Insured Persons**; provided, that the extension of coverage afforded under this Section III.C will apply only to the extent any such spouse or domestic partner is a party to a **Claim** solely in his or her capacity as a spouse or domestic partner of an **Insured Person** and such **Claim** seeks damages recoverable from marital community property, property jointly held by an **Insured Person** and his or her spouse or domestic partner, or property transferred from an **Insured Person** to his or her spouse or domestic partner. No extension of coverage will be available under this Section III.C for any **Loss** for which any spouse or domestic partner of an **Insured Person** may be liable by reason of his or her own actual or alleged acts, errors, omissions, misstatements, misleading statements or breaches of duty.

Section IV. Limit of Liability

- A. With respect to each Coverage Part, the Insurer will be liable to pay one hundred percent (100%) of

Loss, including **Costs of Defense**, in excess of the applicable retention amount set forth in ITEM 6 of the Declarations, up to the Limit of Liability applicable to such Coverage Part as set forth in ITEM 5 of the Declarations.

- B. The Insurer's maximum aggregate Limit of Liability under this Policy for all **Loss**, including **Costs of Defense**, will be the amount set forth in ITEM 5.d of the Declarations, regardless of the number of **Insureds**, the number of **Claims**, the number of Coverage Parts, the time of payment or the Coverage Part or Coverage Parts under which such **Loss** is paid.
- C. If the Insurer's maximum aggregate Limit of Liability with respect to any **Claim** is or has been exhausted by the payment of **Loss**, all obligations of the Insurer in connection with such **Claim** will be completely fulfilled and exhausted, and the Insurer will have no obligation to make any further payments of **Loss** or to advance any **Costs of Defense** in connection with such **Claim** or to defend or continue to defend such **Claim**. If the Insurer's maximum aggregate Limit of Liability under this Policy is exhausted by the payment of **Loss**, all obligations of the Insurer under this Policy will be completely fulfilled and exhausted, and the Insurer will thereafter have no obligation to make any further payments of **Loss**, to advance any **Costs of Defense** or to defend or continue to defend any **Claim**; under such circumstances, the entire premium for this Policy will be deemed to have been fully earned.

Section V. Retention

- A. One retention shall apply to each and every **Claim**. If a **Claim** gives rise to coverage under more than one Coverage Part, the retention applicable to **Loss** under each such Coverage Part will be applied separately to that **Loss** payable under such Coverage Part; provided, however, that the sum of all such retentions will not exceed the largest single retention applicable to such **Claim** under any applicable Coverage Part. The retention amount will be borne by the **Insureds** uninsured at their own risk.
- B. No retention will apply to **Loss** incurred by any **Insured Person** for which the **Company** is neither required nor permitted to provide advancement or indemnification, or for which the **Company** is required or permitted to provide advancement or indemnification but is unable to do so solely by reason of its **Financial Insolvency**.

Section VI. Allocation, Costs of Defense and Settlements

- A. If a **Claim** made against any **Insured** includes both covered and uncovered matters, or is made against any **Insured** and others, the **Insureds** and the Insurer recognize that there must be an allocation between **Loss** and uninsured damages, settlement amounts and other liabilities in connection with such **Claim**. The **Insureds** and the Insurer will use their best efforts to agree upon a fair and proper allocation. If no agreement can be reached, the Insurer will advance **Costs of Defense** based on what it believes is a fair and proper allocation until such time as the issue can be resolved.
- B. The **Insureds** may not incur **Costs of Defense**, or admit liability, offer to settle, or agree to any settlement in connection with any **Claim** without the express prior written consent of the Insurer, which consent shall not be unreasonably withheld. The Insurer will not be liable for any admission, assumption or stipulation of liability, settlement or **Costs of Defense** to which it has not consented.

Section VII. Notice

- A. As a condition precedent to their rights under this Policy in connection with any **Claim**, the **Insureds** must give the Insurer written notice of such **Claim** as soon as practicable after such **Claim** is made, but in no event later than sixty (60) days after the end of the **Policy Period**. Subject to the foregoing, written notice of a **Claim** will be deemed to have been given as soon as practicable if such notice is given not later than sixty (60) days after the Chairman of the Board of Directors, President, Chief Executive Officer, Chief Financial Officer, General Counsel, or Risk Manager of the **Company** first becomes aware of such **Claim**.

- B.** If, during the **Policy Period** or Discovery Period, any **Insured** first becomes aware of any circumstances which may reasonably be expected to give rise to a Claim being made against an **Insured** and shall give written notice to the Insurer of:
1. the circumstances;
 2. the **Wrongful Act** allegations anticipated; and
 3. the reasons for anticipating such a **Claim**;

with full particulars as to the dates, persons and entities involved, then a **Claim** which is subsequently made against such Insured and reported to the Insurer alleging, arising out of, based upon or attributable to such circumstances or alleging any **Wrongful Act** which is the same as or related to any **Wrongful**

Act alleged or contained in such circumstances, shall be considered made at the time the Insurer received such written notice.

- C.** Notice to the Insurer under Sections VII.A and B above must be given to:

Navigators Insurance Company
One Penn Plaza
New York, NY 10119
ATTN: Navigators Pro Claims Department

Section VIII. General Conditions

A. Worldwide Coverage

The coverage provided by this Policy will apply to **Claims** made, and to **Wrongful Acts** committed or attempted or allegedly committed or attempted, anywhere in the world.

B. Interrelationship of Claims

All **Claims** involving the same **Wrongful Act** or **Related Wrongful Acts** of one or more **Insureds** will be considered a single **Claim**, and will be deemed to have been made on the earlier of the following dates: (1) the earliest date on which any such **Claim** was first made; or (2) the earliest date on which any such **Wrongful Act** or **Related Wrongful Act** was reported under this Policy or any other policy providing similar coverage.

C. Advancement and Indemnification

The certificate of incorporation, charter or other organizational documents of each entity included within the term "**Company**," including by-laws and resolutions, will be deemed to require advancement and indemnification of **Loss** to the **Insured Persons** to the fullest extent permitted by law.

D. Other Insurance

All **Loss** payable under this Policy will be specifically excess of, and will not contribute with, any other valid and collectible insurance, including but not limited to any other insurance under which there is a duty to defend, unless such other insurance is specifically excess of this Policy. This Policy will not be subject to the terms of any other insurance policy or program.

E. Cancellation or Non-Renewal

1. This Policy may be cancelled by the **Corporation** at any time by written notice to the Insurer. Upon cancellation, the Insurer shall retain the customary short rate portion of the premium. Return or tender of any unearned premium will not be a condition of cancellation. This Policy may be cancelled by the Insurer only for non-payment of premium;
2. The Insurer will not be required to renew this Policy. If the Insurer elects not to renew this Policy, the Insurer will provide the **Corporation** with no less than sixty (60) days advance notice thereof. An offer by the Insurer to renew on different terms will not constitute non-renewal.

F. Representations and Severability

It is agreed by the **Insureds** that the particulars and statements contained in the **Proposal Form** and any information provided therewith (which shall be on file with the Insurer and be deemed attached hereto as if physically attached hereto) are the basis of this Policy and are to be considered as incorporated in and constituting a part of this Policy. It is further agreed by the **Insureds** that the statements in the **Proposal Forms** or in any information provided therewith are their representations, that they are material and that this Policy is issued in reliance upon the truth of such representations; provided, in the event that the **Proposal Form** contains misrepresentations made with the actual intent to deceive, or contains misrepresentations which materially affect either the acceptance of the risk or the hazard assumed by

Underwriters under this Policy, this Policy shall be void and have no effect whatsoever with respect to those **Insureds** who made or had knowledge of such misrepresentations. Knowledge of any matter which may give rise to a claim or any misrepresentation made by an **Executive Officer** shall be imputed to the **Company**, but will not be imputed to any **Insured Person** who had no knowledge of the matter which may give rise to a claim or the misrepresentation.

G. Changes in Exposure

1. If, during the **Policy Period**, the **Company** acquires the assets of another entity or acquires a **Subsidiary** or any other entity, by merger, consolidation or otherwise, the coverage afforded under this Policy will be available for **Loss** resulting from **Claims** made during the **Policy Period** or, if purchased, the Discovery Period, against any such entity or any **Insured Persons** thereof for **Wrongful Acts** committed or attempted, or allegedly committed or attempted, by them after the effective date and time of such acquisition. If, however, such assets or the assets of the entity so acquired exceed twenty-five percent (25%) of the total assets of the **Company** as of the date of the most recently audited financial statements of the **Company** or the number of employees of the entity so acquired exceeds twenty-five percent (25%) of the number of the **Company's** employees as of the date of the most recently audited financial statements of the **Company**, such coverage will be available only for ninety (90) days after the effective date and time of such acquisition or until the end of the **Policy Period**, whichever is earlier, unless written notice of such acquisition is given to the Insurer, together with such additional information as the Insurer may request, and the Insurer agrees by written endorsement to this Policy to provide such additional coverage on such terms, conditions and limitations, and for such additional premium, as the Insurer may require. If, however, this Policy contains a Fiduciary Liability Coverage Part, this Section VIII.G.1 will not apply to or operate to extend coverage under such Coverage Part unless the Insurer so agrees by written endorsement to such Coverage Part;

2. If, during the **Policy Period**, any entity ceases to be a **Subsidiary**, the coverage afforded under this Policy in respect of such entity and any **Insureds** thereof by reason of their service with or relationship to such entity will continue to apply to **Claims** made during the **Policy Period** or, if purchased, the Discovery Period, against them for **Wrongful Acts** committed or attempted, or allegedly committed or attempted, by them before such entity ceases to be a **Subsidiary**, but such coverage will cease with respect to **Claims** against any such entity or any such **Insureds** for **Wrongful Acts** committed or attempted, or allegedly committed or attempted, by them after such entity ceases to be a **Subsidiary**;

3. If, during the **Policy Period**, a transaction occurs wherein another person, entity, or group of affiliated persons and/or entities gains control of the **Corporation** through the ownership of more than fifty percent (50%) of the voting stock of the **Corporation**, or the **Corporation** merges into another entity or consolidates with another entity such that the **Corporation** is not the surviving entity, the coverage afforded under this Policy will continue to apply to **Claims** made during the **Policy Period** or, if purchased, the Discovery Period, against any **Insured** for **Wrongful Acts** committed or attempted, or allegedly committed or attempted, before the effective date of such transaction, but coverage will cease with respect to **Claims** against the **Insureds** for **Wrongful Acts** committed or attempted, or allegedly committed or attempted, thereafter. Under such circumstances, the **Insureds** may no longer cancel the Policy and the entire premium for this Policy will be deemed to have been fully earned as of the effective date of such transaction.

H. Quotes for Securities Offerings

If, during the **Policy Period**, any public offering of the **Company's** securities occurs that is not exempt from registration under the Securities Act of 1933 and, at least thirty (30) days prior to the effective date of such offering, the **Insureds** give the Insurer written notice thereof together with all information related thereto as the Insurer may request, the Insurer agrees to give the **Insureds** a quote for coverage with respect to such offering; provided, that such quote will be on such terms and conditions, and for such additional premium, as the Insurer in its sole and absolute discretion shall deem appropriate, and any coverage provided will be on such forms as are in use by the Insurer for public companies at the time of such offering. In the event of an Initial Public Offering of the **Company's** securities, if the **Insureds**

choose to cancel this Policy and purchase a replacement Policy from the Insurer, this Policy will be cancelled and premium returned on a pro-rata basis.

I. Assistance, Cooperation and Subrogation

1. The **Insureds** agree to provide the Insurer with all information, assistance and cooperation that the Insurer may reasonably request, and to do nothing which would in any way increase the Insurer's exposure under this Policy or prejudice the Insurer's actual or potential rights of recovery;

2. In the event of a **Claim**, the **Insureds** shall, as soon as practicable, furnish the Insurer with copies of reports, investigations, pleadings and other papers in connection therewith;

3. In the event of any payment under this Policy, the Insurer will be subrogated to all of the **Insureds'** rights of recovery and the **Insureds** will execute all papers required and do everything that may be necessary to secure such rights, including the execution of such documents as may be necessary to enable the Insurer to effectively bring suit in the name of any **Insured**.

J. Assignment

Assignment of interest under this Policy will not bind the Insurer until its consent is endorsed hereon.

K. Conformity to Statute

Any terms of this Policy which are in conflict with the terms of any applicable laws are hereby amended to conform to such laws.

L. No Action Against the Insurer

1. No action shall be taken against the Insurer unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy, and until the **Insureds'** obligation to pay shall have been finally determined by an adjudication against the **Insureds** or by written agreement of the **Insureds**, the claimant or claimants and the Insurer;
2. No person or organization shall have any right under this Policy to join the Insurer as a party to any **Claim** against the **Insureds**; nor may the Insurer be impleaded by any **Insured** or such **Insured's** legal representative in any such **Claim**.

M. Corporation Represents Insureds

By acceptance of this Policy, the **Corporation** is designated to act on behalf of the **Insureds** for all purposes under this Policy, including but not limited to the giving and receiving of all notices and correspondence, the cancellation or non-renewal of this Policy, the payment of premiums, and the receipt of any return premiums that may be due under this Policy.

N. Bankruptcy or Insolvency

No bankruptcy or insolvency of any **Insured** will relieve the Insurer of any of its obligations under this Policy.

O. Application of Coverage Parts

All Coverage Parts are subject to these GENERAL TERMS AND CONDITIONS. Except as stated in these GENERAL TERMS AND CONDITIONS or unless specifically stated otherwise in any Coverage Part or endorsement, the provisions of each Coverage Part will apply only to that Coverage Part and will in no way limit, increase or affect the coverage afforded under any other Coverage Part. If any provision in these GENERAL TERMS AND CONDITIONS is inconsistent or in conflict with the terms and conditions of any Coverage Part, the terms and conditions of that Coverage Part will control for the purposes thereof.

P. OFAC Disclosure

The Office of Foreign Assets Control ("OFAC") administers and enforces U.S. sanctions policy, based on Presidential declarations of "national emergency." OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations and narcotics traffickers as "Specially Designated Nationals and Blocked Persons"; this list can be located on the website for the United States Department of the Treasury (www.treas.gov/ofac). In accordance with OFAC regulations, if it is determined that any **Insured**, or any person or entity claiming the benefits of this insurance, has violated U.S. sanctions law or is a Specially Designated Nationals and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance will be immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments or premium refunds may be made without authorization from OFAC. Other limitations on premiums and payment may also apply.

Q. Headings

The headings of the various sections of this Policy are intended for reference only and are not to form part of the terms and conditions of coverage.

R. Entire Agreement

By acceptance of this Policy, the **Insureds** agree that this Policy (including the Declarations, the **Proposal Form** and the Coverage Parts specified in ITEM 4 of the Declarations), and any written endorsements attached hereto constitute the entire agreement between the parties relating to this insurance. The terms, conditions and limitations of this Policy can be waived or changed only by written endorsement.

Specimen