

NIC INSURANCE COMPANY
ERRORS & OMISSIONS INSURANCE

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NOTICE: This is a Claims made form. Except to such extent as may otherwise be provided herein, the coverage afforded under this insurance policy is limited to liability for only those Claims that are first made against the Insured and reported to the Company while the insurance is in force. The Limit of Liability available to pay Damages shall be reduced and may be completely exhausted by payment of Claims Expenses. Damages and Claims Expenses shall be applied against the deductible. Please review the coverage afforded under this insurance policy carefully and discuss the coverage hereunder with your insurance agent or broker.

NIC Insurance Company (hereafter the "Company") agrees with the Named Insured, set forth at Item 1 of the Declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the application which is made a part of this insurance policy (hereinafter referred to as the "policy" or "insurance") and subject to the Limit of Liability, exclusions, conditions and other terms of this insurance:

I. INSURING AGREEMENTS

A. Coverage

To pay on behalf of the Insured Damages and Claims Expenses which the Insured shall become legally obligated to pay because of any Claim or Claims first made against any Insured and reported to the Company during the Period of Insurance or Extended Reporting Period, resulting from any act, error or omission of the Insured in rendering or failing to render Professional Services as described in Item 8 of the Declarations, for others on behalf of the Named Insured designated in Item 1 of the Declarations and caused by the Insured except as excluded or limited by the terms, conditions and exclusions of this policy.

B. Defense and Settlement (Included in the Limit of Liability)

1. The Company shall have the right and duty to defend, subject to the Limit of Liability, any Claim against the Insured seeking payment under the terms of this insurance, even if any of the allegations of the Claim are groundless, false or fraudulent.
2. It is agreed that the Limit of Liability available to pay Damages shall be reduced and may be completely exhausted by payment of Claims Expenses. Damages and Claims Expenses shall be applied against the Deductible.

3. The Company shall have the right to make any investigation they deem necessary, including, without limitation, any investigation with respect to the application and statements made in the application and with respect to coverage.
4. If the Insured shall refuse to consent to any settlement or compromise recommended by the Company and acceptable to the claimant and elects to contest the Claim, the Company's liability for any Damages and Claims Expenses shall not exceed the amount for which the Claim could have been settled, less the remaining Deductible, plus the Claims Expenses incurred up to the time of such refusal, or the applicable Limit of Liability, whichever is less, and the Company shall have the right to withdraw from the further defense thereof by tendering control of said defense to the Insured.
5. It is further provided that the Company shall not be obligated to pay any Damages or Claims Expenses, or to undertake or continue defense of any suit or proceeding after the applicable limit of the Company's liability has been exhausted by payment of Damages or Claims Expenses or after deposit of the applicable policy limit in a court of competent jurisdiction, and that upon such payment, the Company shall have the right to withdraw from the further defense thereof by tendering control of said defense to the Insured.

II. PERSONS INSURED

Each of the following is an Insured under this insurance to the extent set forth below:

- (a) if the Named Insured designated in Item 1 of the Declarations is an individual, the person so designated but only with respect to the Professional Services described in Item 8 of the Declarations;
- (b) if the Named Insured designated in Item 1 of the Declarations is a firm or association, the firm or association so designated and any partners, directors, officers or any other employee but solely with respect to the Professional Services, described in Item 8 of the Declarations, on behalf of the Named Insured designated in Item 1 of the Declarations;
- (c) any person who previously qualified as an Insured under (b) above prior to the termination of the required relationship with the Named Insured, but solely with respect to the Professional Services, described in Item 8 of the Declarations, on behalf of the Named Insured designated in Item 1 of the Declarations.
- (d) the estate, heirs, executors, administrators, assigns and legal representatives

of any Insured in the event of such Insured's death, incapacity, insolvency or bankruptcy, but only to the extent that such Insured would otherwise be provided coverage under this insurance.

III. TERRITORY

This insurance applies to acts, errors or omissions which take place anywhere in the world provided the Claim is first made against the Insured within the United States of America, its territories or possessions or Canada during the Period of Insurance or Extended Reporting Period purchased in accordance with Clause IX.

IV. EXCLUSIONS

The coverage under this insurance does not apply to Damages or Claims Expenses incurred with respect:

- (a) to any Claim arising out of any criminal, dishonest, fraudulent or malicious act, error or omission of any Insured, committed with actual, criminal, dishonest, fraudulent or malicious purpose or intent. However, notwithstanding the foregoing, the insurance afforded by this policy shall apply to Claims Expenses incurred in defending any such Claim or circumstance which might lead to a Claim, but shall not apply to any Damages which the Insured might become legally obligated to pay;
- (b) to any Claim by one Insured under this insurance against another Insured under this insurance;
- (c) to any Claim arising out of personal injury, including but not limited to bodily injury, mental anguish or sickness, disease or death of any person, or to injury to or destruction of any tangible property, including the loss of use thereof;
- (d) to any Claim arising out of the insolvency or bankruptcy of any Insured or of any other entity including but not limited to the failure, inability, or unwillingness to pay Claims, losses, or benefits due to the insolvency, liquidation or bankruptcy of any such individual or entity;
- (e) to any Claim arising out of any Insured's activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than of the Named Insured;
- (f) to any Claim made by or against or in connection with any business enterprise (including the ownership, maintenance or care of any property in connection therewith), not named in the Declarations, which is owned by any

Insured or in which any Insured is a trustee, partner, officer, director or employee;

- (g) to any Claim arising out of any acts, errors, or omissions that took place prior to the effective date of this insurance, if any Insured on the effective date knew or could have reasonably foreseen that such acts, errors or omissions might be expected to be the basis of a Claim;
- (h) to any Claim arising out of or relating to any liability assumed by any Insured under any contract or agreement, whether written or oral, including but not limited to any express warranties or guarantees, or estimates of cost, unless such liability would have attached to the Insured in the absence of such agreement;
- (i) to any Claim arising out of the Employee Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto;
- (j) to any punitive or exemplary damages, any damages which are a multiple of compensatory damages, fines, sanctions or penalties, or the return of or reimbursement for fees, costs or expenses charged by any Insured;
- (k) to any Claim or circumstance which might lead to a Claim in respect of which any Insured has given notice to the insurer of any other policy in force prior to the effective date of this policy;
- (l) to any Claim arising out of libel or slander or other defamatory or disparaging material, or a publication or an utterance in violation of an individual's right of privacy;
- (m) to any Claim arising out of plagiarism, infringement of copyright or trademark or patent;
- (n) to any employment practice claims, including any actual or alleged refusal to employ, wrongful hiring, termination of employment or employment practice, improper evaluation or promotion, humiliation, harassment, misconduct or discrimination of any kind by an insured, based on factors including, but not limited to, race, color, creed, national origin, physical or other disability, marital status, age, gender or sexual orientation. This includes creation of a work environment that is intimidating, hostile or offensive.
- (o) to any Claim arising from the failure to buy or maintain any form of insurance, suretyship or bond;
- (p) to any Claim directly or indirectly arising out of:

- (i) the actual, alleged or threatened discharge, dispersal, release or escape or failure to detect the presence of "pollutants," including but not limited to solid, liquid, gaseous or thermal irritants or contaminants, including asbestos, smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste (waste includes materials to be recycled, reconditioned or reclaimed).
- (ii) Any governmental or regulatory directive or request that the Insured or anyone acting under its direction or control test for, monitor, clean up, remove, contain, treat, detoxify or neutralize said "pollutants."
- (q) to any claim arising out of failure to pay any bond, interest on any bond, any debt, financial guarantee or debenture;
- (r) to any claim arising out of any actual or alleged commingling of or inability or failure to pay, collect or safeguard funds;
- (s) to any claim arising out of or based upon a loss alleged to have been sustained through fluctuation in the market value of any security or property including real property;
- (t) to any Claim based upon or arising out of, directly or indirectly, in whole or in part, any investment or tax opinion, advice or analysis or the performance or failure to perform any Professional Services in relation to any offering, syndication, partnership, tax shelter, tax haven, or tax avoidance arrangement, organization or device.
- (u) to any Claim arising out of or related to, directly or indirectly, any act, error or omission involving any security or any activities or transactions subject or claimed to be subject to the Securities Act of 1933, The Securities Exchange Act of 1934, The Public Utility Holding Company Act of 1935, The Trust Indenture Act of 1939, The Investment Company Act of 1940 or the Investment Advisors Act of 1940 or any purchase, sale or offering of any security to or from the public which is subject to any State Blue Sky or Securities Law.

If a retroactive date is applicable to this coverage it will appear at Item 6 of the Declarations and the following exclusion shall apply:

- (v) to any Claim or circumstance that might lead to a Claim arising out of any act, error or omission which took place, or is alleged to have taken place, prior to the retroactive date as set forth in Item 6 of the Declarations.

V. CONDITIONS

Definitions: Wherever used in this policy:

- A. "Claims Expenses" means:
 - (1) reasonable and necessary fees charged by an attorney(s) designated by the Company; and
 - (2) all other reasonable and necessary fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a Claim, suit or proceeding arising in connection therewith, if incurred by the Company, or by the Insured with the written consent of the Company.
 - (3) Claims Expenses does not include any salary, overhead or other charges by the Insured for any time spent in cooperating in the defense and investigation of any Claim or circumstance which might lead to a Claim notified under this insurance.
- B. "Period of Insurance" means the period of time between the inception date shown in the Declarations and the effective date of termination, expiration or cancellation of this insurance and specifically excludes any Extended Reporting Period hereunder.
- C. "Extended Reporting Period", if applicable, means the 12-month period of time after the end of the Period of Insurance for reporting Claims, arising out of acts, errors or omissions which take place prior to the end of the Period of Insurance and otherwise covered by this insurance.
- D. "Claim" means a demand received by any Insured for money or services including the service of suit or institution of arbitration proceedings against the Insured.
- E. "Damages" means a monetary judgment, award or settlement.

VI. LIMIT OF LIABILITY

- A. The Limit of Liability stated in the Declarations as "each claim" is the limit of the Company's liability for all Damages and Claims Expenses arising out of the same, related or continuing professional services without regard to the number of Insureds, Claims or claimants.
- B. The Limit of Liability stated in the Declarations as "annual aggregate" is the total limit of the Company's liability for all Damages and Claims Expenses arising out of all Claims or circumstances which might lead to a Claim which

are covered under the terms and conditions of this policy.

- C. The Limit of Liability for the Extended Reporting Period shall be part of, and not in addition to, the Limit of Liability of the Company for the Period of Insurance.

VII. DEDUCTIBLE

The deductible amount stated in Item 4 of the Declarations shall be satisfied by payments by the Insured of Damages and Claims Expenses resulting from all Claims first made and reported to the Company during the Period of Insurance and the Extended Reporting Period as a condition precedent to the payment by the Company of any amounts hereunder, and the Company shall be liable only for the amounts in excess of such Deductible subject to the Company's total liability not exceeding the limit stated in Item 3 of the Declarations. The Insured shall make direct payments within the deductible to appropriate other parties designated by the Company.

VIII. INNOCENT INSURED

- A. Whenever coverage under this insurance would be excluded, suspended or lost:
 - (1) because of any exclusion relating to criminal, dishonest, fraudulent or malicious acts, errors or omissions by any Insured, and with respect to which any other Insured did not personally participate or personally acquiesce in or remain passive after having personal knowledge thereof, or
 - (2) because of noncompliance with any condition relating to the giving of notice to the Company with respect to which any other Insured shall be in default solely because of the failure to give such notice or concealment of such failure by one or more Insureds responsible for the loss or damage otherwise insured hereunder.

the Company agrees that such insurance as would otherwise be afforded under this policy shall cover and be paid with respect to those Insureds who did not personally commit or personally participate in committing or personally acquiesce in or remain passive after having personal knowledge of (a) one or more of the acts, errors or omissions described in any such exclusion; or (b) such failure to give notice, provided that if the condition be one with which such Insured can comply, after receiving knowledge thereof, the Insured entitled to the benefit of Clause VIII shall comply with such condition promptly after obtaining knowledge of the failure of any other Insured to comply therewith.

- B. With respect to this provision, the Company's obligation to pay in such event shall be in excess of the deductible and in excess of the full extent of any assets of any Insured to whom the exclusion applies. In no event shall the Company's obligation to pay exceed the Limit of Liability stated in Item 3 of the Declarations.

IX. EXTENDED REPORTING ENDORSEMENT

- A. In the event of cancellation or non-renewal of this insurance by the Company, the Named Insured designated in Item 1 of the Declarations shall have the right, upon payment in full and not proportionally or otherwise in part of 100% of the premium set forth in Item 5 of the Declarations, to have issued an endorsement providing a 12-month Extended Reporting Period for Claims first made against any Insured and reported to the Company during the Extended Reporting Period, subject to the conditions set forth in the definition of Extended Reporting Period herein. In order for the Named Insured to invoke the Extended Reporting Period option, the payment of the additional premium for the Extended Reporting Period must be paid to the Company within 30 days of the non-renewal or cancellation.
- B. The Limit of Liability for the Extended Reporting Period shall be part of, and not in addition to, the Limit of Liability of the Company for the Period of Insurance.
- C. The quotation by the Company of a different premium or deductible or Limit of Liability or changes in policy language for the purpose of renewal shall not constitute a refusal to renew by the Company.
- D. The right to the Extended Reporting Period shall not be available to the Named Insured where cancellation or non-renewal by the Company is due to non-payment of premium or failure of an Insured to pay such amounts in excess of the applicable Limit of Liability or within the amount of the applicable deductible.
- E. All notices and premium payments with respect to the Extended Reporting option shall be directed to the Company through the entity named in Item 9 of the Declarations.
- F. At the commencement of the Extended Reporting Period the entire premium shall be deemed earned, and in the event that the Named Insured terminates the Extended Reporting Period for any reason prior to its natural expiration, the Company will not be liable to return any premium paid for the Extended Reporting Period.

X. OTHER INSURANCE

This insurance shall apply in excess of any other valid and collectible insurance available to any Insured, unless such other insurance is written only as specific excess insurance over the Limit of Liability of this policy.

XI. NOTICE OF CLAIM, OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM

- A. If any Claim is made against the Insured, the Insured shall immediately forward to the Company through persons named in Item 7 of the Declarations every demand, notice, summons or other process received by it or its representative.
- B. If during the Period of Insurance the Insured first becomes aware of an act or omission that could reasonably be the basis for a Claim it must give written notice to the Company through persons named in Item 7 of the Declarations during the Period of Insurance of:
- (1) the specific act, error or omission; and
 - (2) the injury or damage which may result or has resulted from the act, error or omission; and
 - (3) the circumstance by which the Insured first became aware of the act, error or omission.

Any subsequent Claim made against the Insured which is the subject of the written notice shall be deemed to have been made at the time written notice was first given to the Company.

- C. A Claim shall be considered to be reported to the Company when notice is first given to the Company through persons named in Item 7 of the Declarations of the Claim or of an act, error or omission which could reasonably be expected to give rise to a Claim.
- D. All Claims arising out of the same, continuing or related Professional Services shall be considered a single Claim and deemed to have been made at the time the first of the related Claims is reported to the Company and shall be subject to one Limit of Liability.
- E. In the event of non-renewal of this insurance by the Company, the Insured shall have thirty (30) days from the expiration date of the Period of Insurance to notify the Company of Claims made against the Insured during the Period of Insurance which arise out of any act, error or omission occurring prior to the termination date of the Period of Insurance and otherwise covered by this insurance.

F. If any Insured shall make any Claim under this policy knowing such claim to be false or fraudulent, as regards amount or otherwise, this policy shall become null and void, and all coverage hereunder shall be forfeited.

XII. ASSISTANCE AND COOPERATION OF THE INSURED

The Insured shall cooperate with the Company in all investigations, including investigations regarding the application and coverage under this policy and, upon the Company's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization other than an employee of any Insured who may be liable to the Insured because of acts, errors or omissions with respect to which insurance is afforded under this policy; and the Insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The Insured shall not, except at his own cost, admit liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate to any judgment or award or otherwise dispose of any Claim without the consent of the Company.

XIII. ACTION AGAINST COMPANY

No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all terms of this insurance, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment or award against the Insured after actual trial or arbitration or by written agreement of the Insured, the claimant and the Company.

Any person or organization or the legal representative thereof who has secured such judgment, award or written agreement shall thereafter be entitled to make a Claim under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this insurance to join the Company as a party to an action or other proceeding against the Insured to determine the Insured's liability, nor shall the Company be impleaded by the Insured or his legal representative. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of its obligations hereunder.

XIV. SUBROGATION

In the event of any payment under this insurance, the Company shall be subrogated to all the Insured's rights of recovery therefor against any person or organization, and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after the payment of Damages by the Company to prejudice such rights.

XV. CHANGES

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this insurance or estop the Company from asserting any right under the terms of this insurance; nor shall the terms of this insurance be waived or changed, except by endorsement issued to form a part of this insurance, signed by the Company.

XVI. MERGERS AND ACQUISITIONS

The Named Insured shall be required to give written notice to the Company prior to the completion of a merger or acquisition by or of the Named Insured, and the Company expressly reserves the right to demand a premium adjustment if this insurance is to remain in force subsequent to any merger or acquisition.

XVII. ASSIGNMENT

The interest hereunder of any Insured is not assignable. If the Insured shall die or be adjudged incompetent, such insurance shall cover the Insured's legal representative as the Insured as would be permitted by this policy.

XVIII. CANCELLATION

- A. This policy of insurance may be cancelled by the Named Insured by surrender thereof to the Company or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This insurance may be cancelled by the Company by mailing to the Named Insured at the address shown in the Declarations written notice stating when not less than 60 days thereafter such cancellation shall be effective. However, if the Company cancels this insurance because the Insured has failed to pay a premium when due this insurance may be cancelled by the Company by mailing a written notice of cancellation to the Named Insured at the address shown in the Declarations stating when not less than 10 days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the Period of Insurance. Delivery (where permitted by law) of such written notice either by the Named Insured or by the Company shall be equivalent to mailing.
- B. If the Named Insured cancels this insurance, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Company cancel this insurance, earned premium shall be computed pro rata. 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.

XIX. SINGULAR FORM OF A WORD

Whenever the singular form of a word is used herein, the same shall include the plural when required by context.

XX. ENTIRE CONTRACT

By acceptance of this policy the Insured agrees that the statements in the Declarations and application are its agreements and representations, that this insurance is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between the Insured and the Company relating to this insurance.

XXI. WAR AND CIVIL WAR EXCLUSION CLAUSE

Notwithstanding anything to the contrary contained herein this insurance does not cover Loss or Damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

XXII. SERVICE OF SUIT

1. It is agreed that in the event of the failure of the Company hereon to pay any amount claimed to be due under this insurance, the Company hereon, at the request of the Named Insured, will submit to the jurisdiction of a court of competent jurisdiction within the United States. This condition does not constitute and should not be understood to constitute an agreement by the Company that an action is properly maintained in a specific forum, nor may it be construed as a waiver of the Company's rights to commence an action in a court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any State of the United States, all of which rights the Company may expressly reserve. It is further agreed that service of process in such suit may be made upon the Company's representative, designated in Item 10 of the Declarations, and that in any suit instituted against any one of them upon this contract, the Company will abide by the final decision of such court in the event of an appeal.
2. The Company's representative, designated in Item 10 of the Declarations, is

authorized and directed to accept service of process on behalf of the Company in any such suit and/or upon the request of the Named Insured to give written undertaking to the Named Insured that they will enter a general appearance upon the Company's behalf in the event such a suit shall be instituted. Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, the Company hereon hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Named Insured or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the Company's representative, designated in Item 10 of the Declarations, as the person to whom the said officer is authorized to mail such process or a true copy thereof.

DECLARATIONS

Attaching to and forming part of
MISCELLANEOUS PROFESSIONAL LIABILITY INSURANCE POLICY NUMBER:

This Insurance is effected with
NIC Insurance Company

THIS IS A CLAIMS-MADE PROFESSIONAL LIABILITY INSURANCE POLICY. PLEASE READ CAREFULLY.

1. NAMED INSURED:
ADDRESS:

2. PERIOD OF INSURANCE: FROM: TO:
12:01 AM STANDARD TIME AT THE ADDRESS SHOWN IN NUMBER 1 ABOVE.

3. LIMIT OF LIABILITY
 - (a) \$ Each claim - includes Claims Expenses.
 - (b) \$ Annual Aggregate - includes Claims Expenses.

4. DEDUCTIBLE \$ Each Claim - includes Claims Expenses.

5. GROSS PREMIUM US \$:

6. RETROACTIVE DATE :

7. NOTICE OF CLAIM TO :
NIC Insurance Company
One Penn Plaza, 55th floor
New York, NY 10119
Attn. Navigators Pro Claims Department

8. PROFESSIONAL SERVICES:

9. NOTICE OF ELECTION :

10. SERVICE OF SUIT :
Mendes & Mount LLP
750, Seventh Avenue
New York, NY

FORMS AND ENDORSEMENTS ATTACHED HERETO