

**THIS IS A CLAIMS-MADE POLICY WITH DEFENSE EXPENSES INCLUDED IN THE LIMIT OF LIABILITY. THE RETENTION WILL APPLY TO DEFENSE EXPENSES AND DEFENSE EXPENSES WILL REDUCE AND MAY COMPLETELY EXHAUST THE LIMIT OF LIABILITY. THE COMPANY WILL NOT BE LIABLE FOR DEFENSE EXPENSES OR FOR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT AFTER EXHAUSTION OF THE LIMIT OF LIABILITY.**

**PLEASE READ THE POLICY CAREFULLY.**

**CONSIDERATION CLAUSE**

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IN CONSIDERATION of the payment of the premium, in reliance on the statements in the **Application**, subject to the Declarations, and pursuant to all the terms, conditions, exclusions and limitations of this **Community Association Management Liability Coverage Policy**, the Company and the **Insureds** agree as follows:

**I. INSURING AGREEMENTS**

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The Company will pay on behalf of:

- A. the Insured Persons, Loss for Directors and Officers Wrongful Acts**, except for **Loss** that the **Insured Organization** pays to or on behalf of the **Insured Persons** as indemnification;
- B. the Insured Organization, Loss for Directors and Officers Wrongful Acts**, that the **Insured Organization** pays to or on behalf of the **Insured Persons** as indemnification; and
- C. the Insured Organization, Loss for Directors and Officers Wrongful Acts**,

that results from any **Directors and Officers Claim** first made during the **Policy Period**, or if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period and reported in accordance with section V. CONDITIONS, E. INSURED'S DUTIES IN THE EVENT OF A CLAIM.

- D. The Company will pay on behalf of the Insured, Loss for any Employment Practices Wrongful Act**, resulting from any **Employment Claim** first made during the **Policy Period**, or if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period and reported in accordance with section V. CONDITIONS, E. INSURED'S DUTIES IN THE EVENT OF A CLAIM.

**II. DEFINITIONS**

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Wherever appearing in this **Community Association Management Liability Coverage Policy**, the following words and phrases appearing in bold type will have the meanings set forth in this section II. DEFINITIONS:

- A. This space is reserved for future use.**
- B. Annual Reinstatement of the Limit of Liability** means, if included in ITEM 10 of the Declarations, the reinstatement of each applicable limit of liability for each **Policy Year** during the **Policy Period**.
- C. Application** means the application deemed to be attached to and forming a part of this **Community Association Management Liability Coverage Policy**, including any materials submitted and statements made in connection with that application. If the **Application** uses terms or phrases that differ from the terms defined in this **Community Association Management Liability Coverage Policy**, no inconsistency between any term or phrase used in the **Application** and any term defined in this **Community Association Management Liability Coverage Policy** will waive or change any of the terms, conditions and limitations of this **Community Association Management Liability Coverage Policy**.

D. **Builder or Developer Board Member** means any natural person appointed or elected to serve on the board of directors of the **Named Insured** by the builder, developer, sponsor, or declarant of the **Named Insured**, and who was both a director or officer of the **Named Insured** and a director, officer, employee or agent of such builder, developer, sponsor, or declarant of the **Named Insured**.

E. **Change of Control** means:

1. the acquisition of the **Named Insured**, or of all or substantially all of its assets, by another entity, or the merger or consolidation of the **Named Insured** into or with another entity such that the **Named Insured** is not the surviving entity; or
2. the obtaining by any person, entity or affiliated group of persons or entities the right to elect, appoint or designate more than 50% of the board of directors, board of trustees, board of managers, or functional equivalent thereof or to exercise a majority control of the board of directors, board of trustees, board of managers, or a functional equivalent thereof of the **Named Insured**.

F. **Claim** means a **Directors and Officers Claim** or **Employment Claim**.

G. **Claimant** means:

1. a past, present or future **Employee** or applicant for employment with the **Insured Entity**; or
2. a governmental entity or agency, including the Equal Employment Opportunity Commission or similar federal, state or local agency, when acting on behalf of or for the benefit of a past, present or future **Employee** or applicant for employment with the **Insured Entity**.

Solely as respects any **Employment Claim**, **Claimant** does not include any independent contractor.

H. **Community Association Management** means any natural person sole proprietor, director, officer, or employee of a **Community Association Management Organization**, but only in his or her capacity as property manager for the **Insured Entity** and only for property management services for the **Insured Entity** that are enumerated in the written contract between the **Community Association Management Organization** and the **Insured Entity** describing such property management services.

I. **Community Association Management Liability Coverage Policy** means, collectively, the Declarations, the **Application**, this Community Association Management Liability Coverage, and any endorsements attached hereto.

J. **Community Association Management Organization** means any sole proprietor or entity providing real estate property management services to an **Insured Entity** pursuant to a written contract, but only in its capacity as property manager for the **Insured Entity** and only for property management services for the **Insured Entity** that are enumerated in the written contract between the **Community Association Management Organization** and the **Insured Entity** describing such property management services.

K. **Construction Defect** means any alleged or actual defective, faulty, or delayed construction or any other matter recognized as a construction defect under applicable common or statutory law, whether or not as a result of:

1. faulty or incorrect design or architectural plans;
2. improper soil testing;
3. inadequate or insufficient protection from subsoil, ground water or earth movement or subsidence;
4. the construction, manufacture, or assembly of any tangible property;
5. the failure to provide construction related goods or services as represented or to pay for such goods or services; or
6. the supervision of any of the activities described in 1. through 5. above.

L. **Defense Expenses** means reasonable and necessary legal fees and expenses incurred by the Company or the **Insured**, with the Company's consent which will not be unreasonably withheld, in the investigation, defense, settlement and appeal of a **Claim**, including cost of expert consultants and witnesses, premiums for appeal, injunction, attachment, or supersedeas bonds (without the obligation to furnish such bonds) regarding such **Claim**;

provided that **Defense Expenses** will not include the salaries, wages, benefits or overhead of, or paid to, any **Insured**.

**M. *Directors and Officers Claim*** means:

1. a written demand for monetary damages or non-monetary relief;
2. a civil proceeding commenced by service of a complaint or similar pleading;
3. a formal administrative or regulatory proceeding, commenced by a filing of a notice of charges, formal investigative order, service of summons or similar document;
4. an arbitration, mediation or similar alternative dispute resolution proceeding if the **Insured** is obligated to participate in such proceeding or if the **Insured** agrees to participate in such proceeding, with the Company's written consent, such consent not to be unreasonably withheld; or
5. a written request to toll or waive a statute of limitations relating to a potential civil or administrative proceeding,

against an **Insured** for any **Directors and Officers Wrongful Act**.

Provided that **Directors and Officers Claim** does not include any labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement.

**Directors and Officers Claim** does not mean any motion for, demand for, or award of, amounts from or against an **Insured** solely consisting of legal costs, whether or not including attorneys' fees, arising out of a legal proceeding or alternative dispute resolution proceeding or brought by an **Insured**.

A **Directors and Officers Claim** is deemed to be made on the earliest date that any **Executive Officer** first receives written notice of such **Directors and Officers Claim**. However, if any **Insured Person** who is not an **Executive Officer** first receives written notice of a **Directors and Officers Claim** during the **Policy Period**, but no **Executive Officer** receives written notice of such **Directors and Officers Claim** until after the **Policy Period** has expired, then such **Directors and Officers Claim** will be deemed to have been made on the date such **Insured Person** first received written notice of the **Directors and Officers Claim**.

**N. *Directors and Officers Wrongful Act*** means:

1. any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty or neglect by, including any **Personal Injury** or **Publishers Liability**, or any matter asserted against, an **Insured Person** in his or her capacity as such;
2. any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty or neglect by, including any **Personal Injury** or **Publishers Liability**, or any matter asserted against, the **Insured Organization**; or
3. any matter asserted against an **Insured Person** solely by reason of his or her status as such.

Provided that **Directors and Officers Wrongful Act** does not mean any **Employment Practices Wrongful Act**.

**O. *Employee*** means a natural person whose labor or service is engaged by and directed by the **Insured Entity** and:

1. who is on the payroll of the **Insured Entity**, including any full-time, part-time, temporary and seasonal worker; or
2. whose services have been leased by the **Insured Entity**.

Independent contractors are not **Employees**. The status of an individual as an **Employee** will be determined as of the date of the alleged **Wrongful Act**.

**P. *Employment Agreement*** means any express or implied employment agreement regardless of the basis in which such agreement is alleged to exist, other than a collective bargaining agreement.

**Q. *Employment Claim*** means:

1. a written demand for monetary damages or non-monetary relief;
2. a civil proceeding commenced by service of a complaint or similar pleading;
3. a formal administrative or regulatory proceeding, commenced by a filing of a notice of charges, formal investigative order, service of summons or similar document, including a proceeding before the Equal Employment Opportunity Commission or any similar governmental agency; provided that in the context of an audit conducted by the Office of Federal Contract Compliance Programs, **Employment Claim** will be limited to a Notice of Violation or Order to Show Cause or written demand for monetary damages or non-monetary relief;
4. an arbitration, mediation, or similar alternative dispute resolution proceeding if the **Insured** is obligated to participate in such proceeding or if the **Insured** agrees to participate in such proceeding, with the Company's written consent, such consent not to be unreasonably withheld; or
5. a written request to toll or waive a statute of limitations relating to a potential civil or administrative proceeding,

against an **Insured** by or on behalf of or for the benefit of a **Claimant** for any **Employment Practices Wrongful Act**.

Provided that **Employment Claim** does not include any labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement.

An **Employment Claim** is deemed to be made on the earliest date that any **Executive Officer** first receives written notice of such **Employment Claim**. However, if any **Insured Person** who is not an **Executive Officer** first receives written notice of an **Employment Claim** during the **Policy Period**, but no **Executive Officer** receives written notice of such **Employment Claim** until after the **Policy Period** has expired, then such **Employment Claim** will be deemed to have been made on the date such **Insured Person** first received written notice of the **Employment Claim**.

**R. *Employment Practices Wrongful Act*** means any actual or alleged:

1. violation of any employment discrimination law, provided such acts or allegations are based on disparate impact or vicarious liability;
2. **Retaliation**;
3. **Sexual Harassment**, committed by an **Insured Person** who does not participate in, direct or knowingly allow such harassment;
4. **Workplace Harassment**, committed by an **Insured Person** who does not participate in, direct or knowingly allow such harassment;
5. **Wrongful Termination**;
6. breach of **Employment Agreement**;
7. violation of the Family Medical Leave Act;
8. employment-related misrepresentation;
9. employment-related defamation, including libel or slander, or invasion of privacy;
10. failure or refusal to create or enforce adequate workplace or employment policies and procedures, employ or promote, including wrongful failure to grant bonuses or perquisites, or grant tenure;
11. wrongful discipline, wrongful demotion, denial of training, deprivation of career opportunity, denial or deprivation of seniority, or evaluation;
12. employment-related wrongful infliction of emotional distress;
13. negligent hiring, supervision of others, training, or retention committed or allegedly committed by any **Insured**, but only if such act is alleged in connection with an **Employment Practices Wrongful Act** set forth in 1. through 12. above; provided that the **Claim** alleging the negligent hiring, supervision of others, training, or retention is brought by or on behalf of any **Claimant**; or

14. the violation of responsibilities, duties, or obligations imposed on an **Insured** under any **Wage and Hour Law**.

**S. Executive Officer** means any member of the board of directors, officer, director, trustee, chairperson, or general counsel of the **Insured Organization** or a functional equivalent thereof, or member of the staff of the human resources department of the **Insured Organization** or functional equivalent thereof, or any on-site or off-site manager of the **Community Association Management Organization**, any **Employee** performing property management services for the **Insured Entity**, or any duly appointed member of a legal committee of the **Insured Entity**.

**T. Financial Insolvency** means, with respect to the **Insured Entity**, the appointment of a receiver, conservator, liquidator, trustee, or similar official; or the inability of the **Insured Entity** financially to indemnify the **Insured Persons**.

**U. Insured** means the **Insured Person** and **Insured Organization**.

**V. Insured Entity** means the **Named Insured**, any **Subsidiary**, and any such entity as a debtor in possession, as such term is used in Chapter 11 of the United States of America Bankruptcy Code, as amended, or the equivalent of a debtor in possession under any applicable foreign law.

**W. Insured Organization** means **Insured Entity** and **Community Association Management Organization**.

**X. Insured Person** means any natural person who was, is or becomes an **Employee**, duly elected or appointed member of the board of directors, officer, member of the board of trustees, member of the board of managers, member of the board of regents, member of the board of governors, or a functional equivalent thereof, member of a duly constituted committee, or volunteers of the **Insured Entity** or any **Executive Officer**. **Insured Person** also means any **Community Association Management**.

In the event of the death, incapacity or bankruptcy of an **Insured Person**, any **Claim** against the estate, heirs, legal representatives or assigns of such **Insured Person** for a **Wrongful Act** of such **Insured Person** will be deemed to be a **Claim** against such **Insured Person**.

**Y. Loss** means **Defense Expenses** and money which an **Insured** is legally obligated to pay as a result of a **Claim**, including compensatory damages, prejudgment interest, judgments, and settlements. **Loss** does not include:

1. the multiple portion of any multiplied damage award;
2. any amount not indemnified by the **Insured Organization** for which the **Insured** is absolved from payment by reason of any covenant, agreement or court order;
3. civil or criminal fines, sanctions, liquidated damages other than liquidated damages awarded under the Age Discrimination in Employment Act or the Equal Pay Act; payroll or other taxes, or damages, penalties or types of relief deemed uninsurable under applicable law;
4. future compensation, including salary or benefits, for a **Claimant** who has been or will be hired, promoted or reinstated to employment pursuant to a settlement, court order, judgment, award or other resolution of a **Claim**; or that part of any judgment or settlement which constitutes front pay, future monetary losses including pension and other benefits, or other future economic relief or the value or equivalent thereof, if the **Insured** has been ordered, or has the option pursuant to a judgment, order or other award or disposition of a **Claim**, to promote, accommodate, reinstate, or hire the **Claimant** to whom such sums are to be paid, but fails to do so;
5. medical, pension, disability, life insurance, stock options or other similar employee benefits except and to the extent that a judgment or settlement of a **Claim** includes a monetary component measured by the value of medical, pension, disability, life insurance, stock options or other similar employee benefits, as consequential damages for a **Wrongful Act**; or
6. any amount allocated to non-covered loss pursuant to section V. CONDITIONS, Q. ALLOCATION.

**Z. Named Insured** means any entity named in ITEM 1 of the Declarations.

**AA. Personal Injury** means false arrest, wrongful detention or imprisonment, malicious prosecution, defamation including libel or slander, invasion of privacy or wrongful entry or eviction.

- BB. *Policy Period*** means the period from the Inception Date to the Expiration Date set forth in ITEM 2 of the Declarations. In no event will the **Policy Period** continue past the effective date of cancellation or termination of this **Community Association Management Liability Coverage Policy**.
- CC. *Policy Year*** means:
1. the period of one year following the Inception Date set forth in ITEM 2 of the Declarations or any anniversary thereof; and
  2. the time between the Inception Date set forth in ITEM 2 of the Declarations or any anniversary thereof and the effective date of cancellation or termination of this **Community Association Management Liability Coverage Policy** if such time period is less than one year.
- DD. *Pollutant*** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- EE. *Potential Claim*** means any **Wrongful Act** that may subsequently give rise to a **Claim**.
- FF. *Publishers Liability*** means infringement of copyright or trademark, unauthorized use of title, plagiarism or misappropriation of ideas.
- GG. *Related Wrongful Act*** means all **Wrongful Acts** that have as a common nexus, or are causally connected by reason of, any fact, circumstance, situation, event, or decision.
- HH. *Retaliation*** means any actual or alleged **Wrongful Termination** or other adverse employment action against a **Claimant** on account of such **Claimant's** exercise or attempted exercise of rights protected by law, refusal to violate any law, disclosure or threat to disclose to a superior or to any governmental agency alleged violations of the law, or on account of the **Claimant** having assisted or testified in or cooperated with a proceeding or investigation regarding alleged violations of law.
- II. *Sexual Harassment*** means any actual or alleged unwelcome sexual advances, requests for sexual favors or any other conduct of a sexual nature that:
1. is made a term or condition of a **Claimant's** employment or advancement;
  2. the submission to or rejection of is used as a basis for decisions affecting the **Claimant**; or
  3. has the purpose or effect of creating an intimidating, hostile or offensive work environment.
- Sexual Harassment** includes only such acts or allegations based upon vicarious liability.
- JJ. *Subsidiary*** means:
1. any non-profit entity organized under the laws of any jurisdiction in which, on or before the Inception Date set forth in ITEM 2 of the Declarations, the **Named Insured** owns, directly or indirectly, more than 50% of the outstanding securities or voting rights representing the present right to elect, appoint or exercise a majority control over such entity's board of directors, board of trustees, board of managers, or functional equivalent, or, in the case of any non-profit entity that does not issue securities, over which, on or before the Inception Date set forth in ITEM 2 of the Declarations, the **Named Insured** has the ability to exercise managerial control;
  2. any for-profit entity; provided that it has been added specifically by endorsement to this **Community Association Management Liability Coverage Policy**; or
  3. subject to the provisions set forth in section V. CONDITIONS, N. ACQUISITIONS, any non-profit entity that the **Insured Entity** acquires or forms during the **Policy Period** in which the **Named Insured** owns, directly or indirectly, more than 50% of the outstanding securities or voting rights representing the present right to elect, appoint or exercise a majority control over such entity's board of directors, board of trustees, board of managers, or functional equivalent, or, in the case of any non-profit entity that does not issue securities, over which the **Named Insured** has the ability to exercise managerial control.
- KK. *Wage and Hour Law*** means any federal, state, or local law or regulation governing or related to the payment of wages including the payment of overtime, on-call time, minimum wages, meal breaks, rest breaks or the classification of employees for the purpose of determining employees' eligibility for compensation under such laws.

**LL. Wage and Hour Law Employment Claim** means an **Employment Claim** for an alleged violation of responsibilities, duties or obligations imposed on an **Insured** under any **Wage and Hour Law**; provided that **Wage and Hour Law Employment Claim** does not include any **Employment Claim** for **Retaliation** or any actual or alleged violation of the Equal Pay Act.

**MM. Workplace Harassment** means any actual or alleged harassment, other than **Sexual Harassment**, which creates a work environment that interferes with job performance, or creates an intimidating, hostile, or offensive work environment. **Workplace Harassment** includes only such acts or allegations based upon vicarious liability.

**NN. Wrongful Act** means **Directors and Officers Wrongful Act** or **Employment Practices Wrongful Act**.

All **Related Wrongful Acts** are a single **Wrongful Act** for purposes of this **Community Association Management Liability Coverage Policy**, and all **Related Wrongful Acts** will be deemed to have occurred at the time the first of such **Related Wrongful Acts** occurred whether prior to or during the **Policy Period**.

**OO. Wrongful Termination** means the actual, alleged, or constructive termination of an employment relationship between a **Claimant** and the **Insured Entity**.

### **III. EXCLUSIONS**

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#### **A. EXCLUSIONS APPLICABLE TO ALL LOSS**

1. The Company will not be liable for **Loss** for any **Claim** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any damage to, destruction of, deterioration of, loss of, or loss of use of any tangible property, including any **Construction Defect**.
2. The Company will not be liable for **Loss** for any **Claim** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any bodily injury, sickness, disease, death, loss of consortium, emotional distress, mental anguish, humiliation, or loss of reputation; provided that this exclusion will not apply to allegations of emotional distress or mental anguish if, and only to the extent, that such allegations are made as part of any **Employment Claim**.
3. The Company will not be liable for **Loss** for any **Claim** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any nuclear reaction, nuclear radiation, radioactive contamination, or radioactive substance, or the hazardous properties of nuclear material; or infectious waste or medical waste.
4. The Company will not be liable for **Loss** for any **Claim**:
  - a. based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of any **Pollutant**;
  - b. based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any request, demand, order, or statutory or regulatory requirement that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of any **Pollutant**; or
  - c. brought by or on behalf of any governmental authority because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of any **Pollutant**,

provided that this exclusion will not apply to **Employment Claims** for **Retaliation**.

5. The Company will not be liable for **Loss** for any **Claim** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any fact, circumstance, situation, event or **Wrongful Act** underlying or alleged in any prior or pending civil, criminal, administrative or regulatory proceeding against any **Insured** as of or prior to the applicable Prior and Pending Proceeding Date set forth in ITEM 5 of the Declarations for this **Community Association Management Liability Coverage Policy**.

6. The Company will not be liable for **Loss** for any **Claim** for any fact, circumstance, situation, or event that is or reasonably would be regarded as the basis for a claim about which any **Executive Officer** had knowledge prior to the applicable Continuity Date set forth in ITEM 5 of the Declarations for this **Community Association Management Liability Coverage Policy**.
7. The Company will not be liable for **Loss** for any **Claim** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any fact, circumstance, situation, event, or **Wrongful Act** which, before the Inception Date set forth in ITEM 2 of the Declarations, was the subject of any notice of **Claim** or potential claim given by or on behalf of any **Insured** under any policy of insurance of which this **Community Association Management Liability Coverage Policy** is a direct renewal or replacement or which it succeeds in time.
8. The Company will not be liable for **Loss** for any **Claim** for any violation of responsibilities, duties or obligations under the Employee Retirement Income Security Act of 1974 (ERISA), including amendments thereto and regulations promulgated thereunder, or any similar or related federal, state or local law or regulation; or for an **Insured's** failure or refusal to establish, contribute to, pay for, insure, maintain, provide benefits pursuant to, or enroll or maintain the enrollment of an employee or dependent in, any employee benefit plan, fund or program, including contracts or agreements which are not subject to the provisions of ERISA; provided that this exclusion will not apply to **Employment Claims for Retaliation**.
9. The Company will not be liable for **Loss** for any **Claim** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any **Wrongful Act** by an entity that is or was a **Subsidiary**, or any **Insured Person** of such entity, occurring at any time during which such entity was not a **Subsidiary**.
10. The Company will not be liable for **Loss** for any **Claim** for any violation of responsibilities, duties or obligations under any law concerning Social Security, unemployment insurance, workers compensation, disability insurance, or any similar or related federal, state or local law or regulation, or for any violation of the Worker Adjustment and Retraining Notification Act (WARN), Occupational Safety and Health Act (OSHA), Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the National Labor Relations Act (NLRA), or amendments thereto or regulations promulgated thereunder, or any similar or related federal, state or local law or regulation or for any violation of responsibilities, duties or obligations imposed on an **Insured** under any **Wage and Hour Law**; provided that this exclusion will not apply to:
  - a. **Employment Claims for Retaliation**;
  - b. **Employment Claims** for any actual or alleged violation of the Equal Pay Act; or
  - c. **Defense Expenses**, not to exceed \$100,000, or 25% of the total applicable limit of liability set forth in ITEM 5 of the Declarations, whichever is less, for any **Wage and Hour Law Employment Claim**.
11. The Company will not be liable for **Loss** for any **Claim** by or on behalf of the **Insured Entity** against any **Community Association Management** or **Community Association Management Organization**.
12. The Company will not be liable for **Loss** for any **Claim** for **Wrongful Acts** by an **Insured Person** as a director, officer or employee of any entity other than the **Insured Entity**, even if such service is directed or requested by the **Insured Entity**.
13. The Company will not be liable for **Loss** for any **Claim** for **Wrongful Acts** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the ownership, control, management or operation of any for-profit entity of the **Insured Entity** until and unless it has been added specifically by endorsement as a **Subsidiary** to this **Community Association Management Liability Coverage Policy**.
14. The Company will not be liable for **Loss** for any **Claim** for an **Insured** gaining in fact any profit, remuneration or advantage to which any **Insured** was not legally entitled.



15. The Company will not be liable for **Loss** for any **Claim** by or on behalf of an employee of the **Community Association Management Organization** for employment-related **Wrongful Acts**.

## **B. EXCLUSIONS APPLICABLE TO LOSS, OTHER THAN DEFENSE EXPENSES**

1. The Company will not be liable for **Loss**, other than **Defense Expenses**, for any **Claim** seeking costs and expenses incurred or to be incurred to comply with an order, judgment or award of injunctive or other equitable relief of any kind, or that portion of a settlement encompassing injunctive or other equitable relief, including actual or anticipated costs and expenses associated with or arising from an **Insured's** obligation to provide reasonable accommodation under, or otherwise comply with, the Americans With Disabilities Act or the Rehabilitation Act of 1973, including amendments thereto and regulations promulgated thereunder, or any similar or related federal, state or local law or regulation.
2. The Company will not be liable for **Loss**, other than **Defense Expenses**, for any **Claim** for liability under or breach of any oral, written, or implied contract or agreement, including any liability of others assumed by an **Insured** under any such contract or agreement; provided that this exclusion will not apply to:
  - a. any **Employment Claim**; or
  - b. the extent that the **Insured** would have been liable in the absence of such contract or agreement.
3. The Company will not be liable for **Loss**, other than **Defense Expenses**, for any **Claim** seeking severance pay, damages or penalties under an express written **Employment Agreement**, or under any policy or procedure for payment in the event of separation from employment; or sums sought solely on the basis of a claim for unpaid services.
4. The Company will not be liable for **Loss**, other than **Defense Expenses**, for any **Claim** made against any **Insured** for the payment of penalties or other similar monetary amounts that the **Insured** may become obligated to pay as the result of an administrative proceeding or other non-judicial dispute resolution forums.
5. The Company will not be liable for **Loss**, other than **Defense Expenses**, for any **Claim** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving any deliberately fraudulent or dishonest act or omission or any purposeful violation of any statute, rule or law by such **Insured**.
6. The Company will not be liable for **Loss**, other than **Defense Expenses**, for any **Claim** based upon or arising out of allegations that constitute the elements of a crime or misdemeanor or which would be against the public policy of the State of New York.

## **IV. SEVERABILITY OF EXCLUSIONS**

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No fact pertaining to or knowledge or information possessed by any **Insured Person** will be imputed to any other **Insured Person** to determine the application of any of the exclusions set forth in section III. EXCLUSIONS above. Only facts pertaining to or knowledge or information possessed by an officer, director, or trustee of the **Insured Organization** will be imputed to the **Insured Organization** for purposes of applying any exclusion in section III. EXCLUSIONS above.

## **V. CONDITIONS**

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### **A. TERRITORY**

This **Community Association Management Liability Coverage Policy** applies to **Claims** made or **Wrongful Acts** occurring anywhere in the world, where legally permissible.

### **B. RETENTION**

The **Insured** will bear uninsured at its own risk the amount of any applicable Retention, which amount must be paid in satisfaction of **Loss**.

If any **Claim** gives rise to coverage under this **Community Association Management Liability Coverage Policy**, the Company has no obligation to pay **Loss**, including **Defense Expenses**, until the applicable Retention amount set forth in ITEM 5 of the Declarations has been exhausted by amounts that constitute covered loss.

If any **Claim** is subject to different Retentions under this **Community Association Management Liability Coverage Policy**, the applicable Retentions will be applied separately to each part of such **Claim**, but the sum of such Retentions will not exceed the largest applicable Retention under this **Community Association Management Liability Coverage Policy**.

No Retention will apply to an **Insured Person** if indemnification by the **Insured Organization** is not permitted by law or if the **Insured Organization** is unable to make such indemnification solely by reason of its **Financial Insolvency**. The **Insured Organization** will be conclusively deemed to have indemnified all **Insured Persons** to the extent that the **Insured Organization** is permitted or required to indemnify them pursuant to law, common or statutory, or contract, or the charter or by-laws of the **Insured Organization**, unless such indemnification is not made by the **Insured Organization** solely by reason of its **Financial Insolvency**.

Regardless of whether **Loss** resulting from any **Claim** against **Insured Persons** is actually indemnified, Insuring Agreement B and the Retention amount set forth in ITEM 5 of the Declarations will apply to any **Loss** as to which indemnification by the **Insured Organization** is legally permissible, unless such indemnification is not made by the **Insured Organization** solely by reason of its **Financial Insolvency**.

The certificate of incorporation, charter, articles of association or other organizational documents of the **Insured Organization**, including by-laws and resolutions, will be deemed to have been adopted or amended to provide indemnification to the **Insured Persons** to the fullest extent permitted by law.

The Company, at its sole discretion, may pay all or part of the Retention amount on behalf of any **Insured**, and in such event, the **Insureds** agree to repay the Company any amounts so paid.

Notwithstanding the above, the Company shall have no obligation to pay **Loss**, including **Defense Expenses**, resulting from any **Claim** under Insuring Agreement A, until the applicable retention has been paid by the **Insured Persons**. The minimum retentions with regard to coverage under Insuring Agreement A. shall be one hundred dollars (\$100) per **Insured Person** each **Claim**, not to exceed one thousand dollars (\$1,000) for all **Insured Persons** each **Claim**. The Company will not reimburse the **Insured Persons** for any Insuring Agreement A. retention that has been paid by the **Insured Persons**.

With regard to coverage provided under Insuring Agreement A. and according to the retentions above, the Company shall only be liable for the amount of **Loss**, including **Defense Expenses**, resulting from a **Claim** which is in excess of the lesser of: (i) the sum of the per **Insured Person** retention, or (ii) the aggregate **Insured Persons** retention. Provided, however, if the sum of the individual retention amounts for all **Insured Persons** covered under this **Community Association Management Liability Coverage Policy** who have been found liable or who have been included in a settlement exceeds the aggregate retention, then the minimum individual retention amount chargeable to each **Insured Person** shall be the applicable aggregate retention, divided by the number of involved **Insured Persons**, but the minimum individual retention amount for each involved **Insured Person** shall in no event be reduced below seventy-five (75%).

With respect to all **Claims**, the Insured shall share the payment of the first \$1,000,000 of all **Loss**, in excess of the retention, to the amount of a .1% coinsurance. The Company's obligation to pay its percentage of **Loss** is subject to **Section V. CONDITIONS, C. LIMITS OF LIABILITY**. The **Insured's** percentage shall be deemed uninsured and at its own risk.

## C. LIMITS OF LIABILITY

### 1. Limits of Liability

This section applies as described herein regardless of the number of persons or entities bringing **Claims** or the number of persons or entities who are **Insureds**, and regardless of when payment is made by the Company or when an **Insured's** legal obligation with regard thereto arises or is established.

Subject to any applicable **Annual Reinstatement of the Limit of Liability**, the Limit of Liability set forth in ITEM 5 of the Declarations is the maximum amount the Company will pay for all **Loss**, including **Defense Expenses**, for all **Claims** under this **Community Association Management Liability Coverage Policy**.

However, the Company's maximum limit of liability for **Defense Expenses** for all **Wage and Hour Law Employment Claims** is further limited by the following:

The Company's maximum limit of liability for **Defense Expenses** for all **Wage and Hour Law Employment Claims** will not exceed:

- a. \$100,000, which amount is included within, and is not in addition to, any applicable limit of liability; or
  - b. 25% of the total applicable limit of liability set forth in ITEM 5 of the Declarations,
- whichever is less.

## 2. Annual Reinstatement of the Limit of Liability

Regardless of the number of persons or entities bringing **Claims** or the number of persons or entities who are **Insureds**, and regardless of when payment is made by the Company or when an **Insured's** legal obligation with regard thereto arises or is established, if ITEM 10 of the Declarations includes an **Annual Reinstatement of the Limit of Liability**, the Company's maximum limit of liability for all **Loss**, including **Defense Expenses**, for all **Claims** made during each **Policy Year** will not exceed the remaining Limit of Liability stated in ITEM 5 of the Declarations.

## 3. Defense Only Claim Limit of Liability

Regardless of the number of persons or entities bringing **Claims** or the number of persons or entities who are **Insureds**, and regardless of when payment is made by the Company or when an **Insured's** legal obligation with regard thereto is established, and further subject to any applicable **Annual Reinstatement of the Liability Coverage Limit of Liability**, the Company's maximum limit of liability for **Defense Expenses** incurred in connection with:

- a. an administrative or regulatory proceeding or other non-judicial dispute resolution forum;
  - b. litigation in which the remedies or relief sought are non-pecuniary or non-monetary in nature; or
  - c. all **Claims** for which **Loss**, other than **Defense Expenses**, is excluded under any Liability Coverage,
- will not exceed 25% of the total Limit of Liability stated in ITEM 5 of the Declarations.

## D. CLAIM DEFENSE

1. The Company will have the right and duty to defend any **Claim** even if the allegations are groundless, false or fraudulent; provided, that the Company will not be obligated to defend or to continue to defend any **Claim** after the applicable limit of liability has been exhausted by payment of **Loss**.
2. The **Insured** agrees to cooperate with the Company and, upon the Company's request, assist in making settlements and in the defense of **Claims** and in enforcing rights of contribution or indemnity against any person or entity which may be liable to the **Insured** because of an act or omission insured under such **Community Association Management Liability Coverage Policy**, and will attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.
3. The **Insured** will have the option to: (a) select the defense attorney or to consent to the Company's choice of defense attorney, which consent will not be unreasonably withheld; (b) participate in, and assist in the direction of, the defense of any claim; (c) consent to settlement, which consent shall not be unreasonably withheld.
4. This **Community Association Management Liability Policy** will provide coverage, subject to all other terms, conditions and exclusions of this **Community Association Management Liability Policy**, for **Defense**

**Expenses** of any **Insured** incurred in administrative proceedings or other non-judicial dispute resolution forums only where:

- a. the allegations do not involve claims of entitlement to non-employment related benefits, provided either directly or indirectly, from any government, governmental agency or political subdivision pursuant to any entitlement program; and
  - b. the matter before the administrative or other body involves allegations which could form the basis of a **Claim** liability against an **Insured** which would be covered under this **Community Association Management Liability Policy**.
5. This **Community Association Management Liability Policy** will provide coverage, subject to all other terms, conditions, and exclusion of this **Community Association Management Liability Policy**, for **Defense Expenses** of any **Insured** incurred in litigation if the remedies or relief sought are non-pecuniary in nature only where:
- a. the allegations do not involve claims of entitlement to non-employment related benefits, provided either directly or indirectly, from any government, governmental agency or political subdivision pursuant to any entitlement program; and
  - b. the allegations involved could form the basis of a claim of legal liability against the **Insured** for pecuniary damages (exclusive of punitive damages) covered under this **Community Association Management Liability Policy** and the non-pecuniary relief being sought serves to mitigate all or part of such pecuniary damages.
6. If the Company concludes that, based on **Claims, Losses** or suits which have been reported to the Company and to which this **Community Association Management Liability Policy** may apply, the limit of liability as stated in the Declarations is likely to be used up in the payment of judgments or settlements, the Company will notify the **Named Insured**, in writing, to that effect.
7. When the limit of liability described in paragraph 6. above has actually been used up in the payment of judgments or settlements:
- a. The Company will notify the **Named Insured**, in writing, as soon as practicable, that:
    - i. such a limit of liability has actually been used up; and
    - ii. the Company's duty to defend **Claims** seeking judgments or settlements subject to that limit of liability has also ended.
  - b. The Company will initiate, and cooperate in, the transfer of control, to any appropriate **Insured**, of all **Claims** and suits seeking **Loss** which are subject to that limit of liability and which are reported to the Company before that limit of liability is used up. The **Insured** must cooperate in the transfer of control of said **Claims** and suits.

The Company agrees to take such steps, as deemed appropriate, to avoid a default in, or continue the defense of, such suits until such transfer is completed, provided the appropriate **Insured** is cooperating in completing such transfer.

The Company will take no action whatsoever with respect to any **Claim** or suit seeking **Losses** that would have been subject to the limit of liability, had it not been used up, if the **Claim** or suit is reported to the Company after that limit of liability has been used up.

8. The **Named Insured**, and any other **Insureds** involved in a suit seeking damages subject to that limit of liability, must arrange for the defense of such suit within such time period as agreed to between the appropriate **Insureds** and the Company. Absent any such agreement, arrangements for the defense of such suit must be made as soon as practicable.
9. The **Named Insured** will reimburse the Company for expenses incurred in taking those steps the Company deems appropriate in accordance with paragraph 7. b. above.

The duty of the **Named Insured** to reimburse the Company will begin on:

- a. the date on which the applicable limit of liability is used up, if the Company sent notice in accordance with paragraph 6. above; or
  - b. the date on which the Company sent notice in accordance with paragraph 7. a. above, if the Company did not send notice in accordance with paragraph 9. a. above
10. The exhaustion of any limit of liability by the payments of judgments or settlements, and the resulting end of the Company's duty to defend, will not be affected by the Company's failure to comply with any of the provisions of this Condition.

#### **E. INSURED'S DUTIES IN THE EVENT OF A CLAIM**

The **Insured's** duty to report a **Claim** commences on the earliest date a written notice thereof is received by an **Executive Officer**. If an **Executive Officer** becomes aware that a **Claim** has been made against any **Insured**, the **Insured**, as a condition precedent to any rights under this **Community Association Management Liability Coverage Policy**, must give to the Company written notice of the particulars of such **Claim**, including all facts related to any alleged **Wrongful Act**, the identity of each person allegedly involved in or affected by such **Wrongful Act**, and the dates of the alleged events, as soon as practicable. The **Insured** agrees to give the Company such information, assistance and cooperation as it may reasonably require.

Notice given by or on behalf of the **Insured**, or written notice by or on behalf of any other injured party, to any agent of the Company in New York State, with particulars sufficient to identify the **Insured**, shall be considered to be notice to the Company.

The failure to give the Company written notice of the particulars of such **Claim** or suit, or to send the Company copies of any demand, notice, summons or other legal papers received, as soon as reasonably practicable, will not invalidate any **Claim** made by the **Insured**, an injured person or any other claimant, or free the Company from any responsibility in any suit if it can be shown not to have been reasonably possible to give the notice or forward the documents promptly, and that notice was given or the documents were sent as soon as reasonably practicable.

The Company's rights will not be deemed prejudiced unless the failure to provide notice of a **Claim** materially impairs the Company's ability to investigate or defend the **Claim**. However, prejudice will be presumed if, prior to the notice, the **Insured's** liability has been determined by a court of competent jurisdiction or by binding arbitration, or if the **Insured** has resolved the **Claim** by settlement or other compromise.

If the Company disclaims liability or denies coverage based on the failure to provide timely notice, then a claimant alleging liability against any **Insured** may bring an action against the Company, subject to the conditions and limitations set forth in section **V. CONDITIONS, S. ACTION AGAINST THE COMPANY**, of the **Community Association Management Liability Policy**.

All notices under this subsection must be sent to the Company by electronic mail, facsimile, or mail as set forth in ITEM 3 of the Declarations and will be effective upon receipt. The **Insured** agrees not to voluntarily settle any **Claim**, make any settlement offer, assume or admit any liability or, except at the **Insured's** own cost, voluntarily make any payment, pay or incur any **Defense Expenses**, or assume any obligation or incur any other expense, without the Company's prior written consent, such consent not to be unreasonably withheld. The Company is not liable for any settlement, **Defense Expenses**, assumed obligation or admission to which it has not consented.

The obligations of the **Insureds** under this section will survive the **Community Association Management Liability Policy**.

## F. NOTICE OF POTENTIAL CLAIMS

If an **Insured** becomes aware of a **Potential Claim** and gives the Company written notice of the particulars of such **Potential Claim**, including all facts related to the **Wrongful Act**, the identity of each person allegedly involved in or affected by such **Wrongful Act**, the dates of the alleged events, and the reasons for anticipating a **Claim**, as soon as practicable during the **Policy Period**, or if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period, any **Claim** subsequently made against any **Insured** arising out of such **Wrongful Act** will be deemed to have been made during the **Policy Period**.

All notices under this subsection must be sent to the Company by electronic mail, facsimile, or mail as set forth in ITEM 3 of the Declarations and will be effective upon receipt.

## G. RELATED CLAIMS

All **Claims** or **Potential Claims** for **Related Wrongful Acts** will be considered as a single **Claim** or **Potential Claim**, whichever is applicable, for purposes of this **Community Association Management Liability Coverage Policy**. All **Claims** or **Potential Claims** for **Related Wrongful Acts** will be deemed to have been made at the time the first of such **Claims** or **Potential Claims** for **Related Wrongful Acts** were made whether prior to or during the **Policy Period**, or if exercised, during the Extended Reporting Period or Run-Off Extended Reporting Period.

## H. SETTLEMENT

The Company may, with the written consent of the **Insured**, make any settlement of a **Claim** it deems expedient. If the **Insured** withholds consent to such settlement, the Company's liability for all **Loss** on account of such **Claim** will not exceed the amount for which the Company could have settled such **Claim** plus **Defense Expenses** accrued as of the date such settlement was proposed in writing by the Company.

## I. OTHER INSURANCE AND INDEMNIFICATION

If any **Loss** otherwise covered under this **Community Association Management Liability Coverage Policy** is insured under any other valid and collectible policy or policies, then this **Community Association Management Liability Coverage Policy** will apply only in excess of the amount of any deductibles, retentions and limits of liability under such other insurance, whether such other insurance is stated to be primary, contributory excess, contingent or otherwise, unless such other insurance is written specifically excess of this **Community Association Management Liability Coverage Policy** by reference in such other policy to the policy number of this **Community Association Management Liability Coverage Policy**.

Additionally, this **Community Association Management Liability Coverage Policy** will apply only as excess insurance over, and will not contribute with indemnification to which any **Insured Person** is entitled from any outside entity other than the **Insured Organization**. This **Community Association Management Liability Coverage Policy** will not be subject to the terms of any other insurance.

## J. ORDER OF PAYMENTS

If **Loss**, other than **Defense Expenses**, from any **Directors and Officers Claim** exceeds the remaining applicable limit of liability as set forth in ITEM 5 of the Declarations:

1. the Company will first pay **Loss** for such **Directors and Officers Claim** to which Insuring Agreement A. applies; then
2. to the extent that any amount of the applicable limit of liability remains available, the Company will pay **Loss** for such **Directors and Officers Claim** to which Insuring Agreements B. and C. apply.

Upon written request of the **Insured Entity** by and through any **Executive Officer** of the **Insured Entity**, the Company will either pay or withhold payment of **Loss** from such **Directors and Officers Claim** under Insuring Agreements B. and C., as applicable. In the event of a written request to withhold payment, the Company will make any future payment only for **Loss** from any such **Directors and Officers Claim** to which Insuring

Agreement A. applies, unless otherwise so instructed upon written request by and through an **Executive Officer** of the **Insured Entity**.

#### K. SUBROGATION

In the event of payment under this **Community Association Management Liability Coverage Policy**, the Company is subrogated to all of the **Insured's** rights of recovery against any person or organization to the extent of such payment and the **Insured** agrees to 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.

#### L. RECOVERIES

All recoveries from third parties for payments made under this **Community Association Management Liability Coverage Policy** will be applied, after first deducting the costs and expenses incurred in obtaining such recovery, in the following order of priority:

1. first, to the Company to reimburse the Company for any Retention amount it has paid on behalf of any **Insured**;
2. second, to the **Insured** to reimburse the **Insured** for the amount it has paid which would have been paid hereunder but for the fact that it is in excess of the applicable limits of liability hereunder;
3. third, to the Company to reimburse the Company for the amount paid hereunder; and
4. fourth, to the **Insured** in satisfaction of any applicable Retention;

provided that recoveries do not include any recovery from insurance, suretyship, reinsurance, security or indemnity taken for the Company's benefit.

#### M. CHANGE OF CONTROL

If, during the **Policy Period**, a **Change of Control** occurs, coverage will continue in full force and effect with respect to **Claims** for **Wrongful Acts** committed before such event, but coverage will cease with respect to **Claims** for **Wrongful Acts** committed after such event. No coverage will be available hereunder for **Loss**, including **Defense Expenses**, for any **Claim** based upon, alleging, arising out of, or in any way relating to, directly or indirectly any **Wrongful Act** committed or allegedly committed after such event. After any such event, this **Community Association Management Liability Coverage Policy** may not be canceled by the **Named Insured** and the entire premium for the **Community Association Management Liability Coverage Policy** will be deemed fully earned.

Upon the occurrence of any **Change of Control**, the **Named Insured** will have the right to give the Company notice, within the greater of 60 days from the effective date of the **Change of Control** or 30 days of mailing or delivery of notice by the Company regarding run-off extended reporting coverage, that it desires to purchase, for the additional premium set forth in ITEM 9 of the Declarations, a Run-Off Extended Reporting Period for any **Community Association Management Liability Coverage Policy** following the effective date of such **Change of Control**, regarding **Claims** made during such Run-Off Extended Reporting Period against persons or entities who at the effective date of the **Change of Control** are **Insureds**, but only for **Wrongful Acts** occurring wholly prior to such **Change of Control** and which otherwise would be covered by this **Community Association Management Liability Coverage Policy**, subject to the following provisions:

1. The **Named Insured** may purchase a Run-Off Extended Reporting Period of three years, unless this **Community Association Management Liability Policy**:
  - a. insures a large commercial insured;
  - b. provides a primary limit of at least \$5 million for each **Claim** as set forth in ITEM 5 of the Declarations; or
  - c. includes a Retention of at least \$100,000 as set forth in ITEM 5 of the Declarations,

in which case the **Named Insured** may purchase a Run-Off Extended Reporting Period of 12 months;

2. If this **Community Association Management Liability Policy**, including any preceding policies issued by the Company of which this **Community Association Management Liability Policy** is a direct replacement, renewal, or successor in time, has been in continuous effect for at least three years, the Company's maximum limit of liability for all **Claims** made during such Run-Off Extended Reporting Period will be equal to the limit of liability set forth in the Declarations, unless this **Community Association Management Liability Policy**:
  - a. insures a large commercial insured;
  - b. provides a primary limit of liability of at least \$5 million for each **Claim** as set forth in ITEM 5 of the Declarations; or
  - c. includes a Retention of at least \$100,000 as set forth in ITEM 5 of the Declarations,

in which case the Company's maximum limit of liability for all **Claims** made during such Run-Off Extended Reporting Period will be the amount remaining in the limit of liability set forth in the Declarations as of the effective date of the **Change of Control**; or

3. If this **Community Association Management Liability Policy**, including any preceding policies issued by the Company of which this **Community Association Management Liability Policy** is a direct replacement, renewal, or successor in time, has been in continuous effect for less than three years, the Company's maximum limit of liability for all **Claims** made during the Run-Off Extended Reporting Period will be equal to the greater of:
  - a. the amount remaining in the Limit of Liability set forth in ITEM 5 of the Declarations as of the effective date of the **Change of Control**; or
  - b. 50% of the Limit of Liability set forth in ITEM 5 of the Declarations,

provided that, where this **Community Association Management Liability Policy**:

- i. insures a large commercial insured;
- ii. provides a primary limit of liability of at least \$5 million for each **Claim** as set forth in ITEM 5 of the Declarations; or
- iii. includes a Retention of at least \$100,000 as set forth in ITEM 5 of the Declarations,

the Company's maximum limit for all **Claims** made during such Run-Off Extended Reporting Period will be the amount remaining in the Limit of Liability set forth in ITEM 5 of the Declarations as of the effective date of the **Change of Control**;

4. The right to elect the Run-Off Extended Reporting Period will terminate unless written notice of such election, together with payment of the additional premium due, is received by the Company within 60 days of the **Change of Control** or 30 days of mailing or delivery of notice by the Company regarding run-off extended reporting coverage. In the event the Run-Off Extended Reporting Period is purchased, the option to purchase the Extended Reporting Period in section V. CONDITIONS, P. EXTENDED REPORTING PERIOD of this **Community Association Management Liability Coverage Policy** will terminate. In the event the Run-Off Extended Reporting Period is not purchased, the **Named Insured** will have the right to purchase the Extended Reporting Period under the terms of section V. CONDITIONS, P. EXTENDED REPORTING PERIOD;
5. In the event the **Named Insured** is placed in liquidation or bankruptcy or permanently ceases operations and the **Named Insured** or its designated trustee does not purchase the Run-Off Extended Reporting Period, then



any **Insured** has the right, upon payment of the required additional premium, to request in writing the election of the Run-Off Extended Reporting Period within 120 days of the Policy Expiration Date. The Company will have no obligation to provide any notice to any **Insured** of the availability of the Run-Off Extended Reporting Period;

6. If, at any time during the **Policy Period**, the **Insured Entity** eliminates or reduces its ownership interest in or control over a **Subsidiary**, such that it no longer meets the definition of a **Subsidiary**, coverage will continue for such entity and its directors, officers, and employees, but only with regard to **Claims** for **Wrongful Acts** which occurred wholly during the time that the entity was a **Subsidiary**.

#### N. ACQUISITIONS

If, during the **Policy Period**, the **Insured Entity** acquires or forms a **Subsidiary**, this **Community Association Management Liability Coverage Policy** will provide coverage for such **Subsidiary** and its respective **Insured Persons**, subject to all other terms and conditions of this **Community Association Management Liability Coverage Policy** provided written notice of such acquisition or formation has been given to the Company, and specific application has been submitted on the Company's form in use at the time, together with such documentation and information as the Company may require, all within 90 days after the effective date of such formation or acquisition. Coverage for such **Subsidiary** will not be afforded following such 90-day period unless the Company has agreed to provide such coverage, subject to any additional terms and conditions as the Company may require, and the **Named Insured** has paid the Company any additional premium as may be required by the Company.

The 90-day notice requirement and the 90-day limitation of coverage will not apply provided that: (1) the assets of the acquired or formed **Subsidiary** do not exceed 30% of the total assets of the **Insured Entity** as reflected in the **Insured Entity's** most recent fiscal year-end financial statement; or (2) the acquisition or formation occurs less than 90 days prior to the end of the **Policy Period**.

#### O. SPOUSAL AND DOMESTIC PARTNER LIABILITY COVERAGE

This **Community Association Management Liability Coverage Policy** will, subject to all of its terms, conditions, and limitations, be extended to apply to **Loss** resulting from a **Claim** made against a person who, at the time the **Claim** is made, is a lawful spouse or a person qualifying as a domestic partner under the provisions of any applicable federal, state or local law, (a "Domestic Partner") of an **Insured Person**, but only if and so long as:

1. the **Claim** against such spouse or Domestic Partner results from a **Wrongful Act** actually or allegedly committed by the **Insured Person**, to whom the spouse is married, or who is joined with the Domestic Partner; and
2. such **Insured Person** and his or her spouse or Domestic Partner are represented by the same counsel in connection with such **Claim**.

No spouse or Domestic Partner of an **Insured Person** will, by reason of this subsection have any greater right to coverage under this **Community Association Management Liability Coverage Policy** than the **Insured Person** to whom such spouse is married, or to whom such Domestic Partner is joined.

The Company has no obligation to make any payment for **Loss** in connection with any **Claim** against a spouse or Domestic Partner of an **Insured Person** for any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by such spouse or Domestic Partner.

#### P. EXTENDED REPORTING PERIOD

Upon termination of coverage, the Company will provide to the **Insured** a 60-day automatic Extended Reporting Period for **Claims** made against persons or entities who at the effective date of termination of coverage were **Insureds**, but only for **Wrongful Acts** occurring wholly prior to the effective date of termination of coverage. This 60-day automatic Extended Reporting Period will be deemed a part of and not in addition to any Extended Reporting Period purchased by the **Named Insured** in this section III. CONDITIONS, P. EXTENDED REPORTING PERIOD, and is subject to the provisions set forth below.

Within 30 days after termination of this **Community Association Management Liability Policy**, the Company will advise the **Insured** in writing of the availability of this 60-day automatic Extended Reporting Period coverage and the availability of, the premium for, and the importance of purchasing an additional Extended Reporting Period.

The Insured will have the greater of 60 days from the effective date of termination of coverage or 30 days from the date of mailing or delivery of notice regarding additional extended reporting coverage by the Company, in which to give the Company written notice that it desires to purchase, for the additional premium set forth in ITEM 8 of the Declarations, an additional Extended Reporting Period.

This Extended Reporting Period is for **Claims** made against persons or entities who at the effective date of termination are **Insureds**, but only for **Wrongful Acts** occurring wholly prior to the effective date of the termination, subject to the following provisions:

1. The **Insured** may purchase an Extended Reporting Period of three years, unless this **Community Association Management Liability Policy**:

- a. insures a large commercial insured;
- b. provides a primary Limit of Liability of at least \$5 million for each **Claim** as set forth in ITEM 5 of the Declarations; or
- c. includes a Retention of at least \$100,000 as set forth in ITEM 5 of the Declarations,

in which case the **Insured** may purchase an Extended Reporting Period of 12 months;

2. If this **Community Association Management Liability Policy**, including any preceding policies issued by the Company of which this **Community Association Management Liability Policy** is a direct replacement, renewal, or successor in time, has been in continuous effect for at least three years, the Company's maximum limit of liability for all **Claims** made during such Extended Reporting Period will be equal to the limit of liability set forth in the Declarations, unless this **Community Association Management Liability Policy**:

- a. insures a large commercial insured;
- b. provides a primary limit of liability of at least \$5 million for each **Claim** as set forth in the Declarations; or
- c. includes a Retention of at least \$100,000 as set forth in the Declarations,

in which case the Company's maximum limit of liability for all **Claims** made during such Extended Reporting Period will be the amount remaining in the Limit of Liability set forth in ITEM 5 of the Declarations as of the effective date of cancellation or termination; or

3. If this **Community Association Management Liability Policy**, including any preceding policies issued by the Company of which this **Community Association Management Liability Policy** is a direct replacement, renewal, or successor in time, has been in continuous effect for less than three years, the Company's maximum limit of liability for all **Claims** made during the Extended Reporting Period will be equal to the greater of:

- a. the amount remaining in the Limit of Liability set forth in ITEM 5 of the Declarations as of the effective date of cancellation or termination; or
- b. 50% of the Limit of Liability set forth in ITEM 5 of the Declarations,

provided that, where this **Community Association Management Liability Policy**:

- i. insures a large commercial insured;
- ii. provides a primary Limit of Liability of at least \$5 million for each **Claim** as set forth in ITEM 5 of the Declarations; or
- iii. includes a Retention of at least \$100,000 as set forth in ITEM 5 of the Declarations,

the Company's maximum limit of liability for all **Claims** made during such Extended Reporting Period will be the amount remaining in the limit of liability set forth in ITEM 5 of the Declarations as of the effective date of cancellation or termination.

4. If the **Community Association Management Liability Policy** is canceled by the Company because of non-payment of premium, and at the effective date of such cancellation the Company has provided this insurance to the **Named Insured** on a claims-made basis continuously without interruption for less than one year, there will be no right to elect and purchase an Extended Reporting Period;
5. In the event the **Named Insured** is placed in liquidation or bankruptcy or permanently ceases operations and the **Named Insured** or its designated trustee does not purchase the Extended Reporting Period, then any **Insured** has the right, upon payment of the required additional premium, to request in writing the election of the Extended Reporting Period within 120 days of the Policy Expiration Date. The Company will have no obligation to provide any notice to any **Insured** of the availability of the Extended Reporting Period; and
6. For purposes of this section III. CONDITIONS, P. EXTENDED REPORTING PERIOD, "termination of coverage" means, whether by the Company or the **Insured**, cancellation, termination, or nonrenewal of coverage, or renewal with a decrease in limits, reduction of coverage, or increase of self-insured retention, new exclusion, or any other change in coverage less favorable to the **Insured**.

#### Q. ALLOCATION

1. If there is a **Claim** under this **Community Association Management Liability Coverage Policy** in which the **Insureds** who are afforded coverage for such **Claim** incur an amount consisting of both **Loss** that is covered by this **Community Association Management Liability Coverage Policy** and also loss that is not covered by this **Community Association Management Liability Coverage Policy** because such **Claim** includes both covered and uncovered matters, then such covered **Loss** and uncovered loss will be allocated as follows:
  - a. one hundred percent of **Defense Expenses** incurred by and on behalf of the **Insureds** who are afforded coverage for such **Claim** will be allocated to covered **Loss**; and
  - b. all loss other than **Defense Expense** will be allocated between covered **Loss** and uncovered loss based upon the relative legal and financial exposures of, and relative benefits obtained in connection with the defense and settlement of, the **Claim** by the **Insured Persons**, the **Insured Organization**, and others not insured under this **Community Association Management Liability Coverage Policy**. In making such a determination, the **Insured Organization**, the **Insured Persons** and the Company agree to use their best efforts to determine a fair and proper allocation of all such amounts. In the event that an allocation cannot be agreed to, then the Company will be obligated to make an interim payment of the amount of Loss which the parties agree is not in dispute until a final amount is agreed upon or determined pursuant to the provisions of this **Community Association Management Liability Coverage Policy** and applicable law.

#### R. CANCELLATION AND NONRENEWAL

The Company may cancel this **Community Association Management Liability Coverage Policy** in which case 20 days written notice will be given to the **Named Insured**. The Company has the right to the premium amount for the portion of the **Policy Period** during which this **Community Association Management Liability Coverage Policy** was in effect.

Subject to the provisions set forth in section V. CONDITIONS, M. CHANGE OF CONTROL, the **Named Insured** may cancel this **Community Association Management Liability Coverage Policy** by mailing the Company written notice stating when, thereafter, not later than the Expiration Date set forth in ITEM 2 of the Declarations, such cancellation will be effective. The earned premium will be computed on a pro rata basis. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

The Company will not be required to renew this **Community Association Management Liability Coverage Policy** upon its expiration. If the Company elects not to renew, it will provide to the **Named Insured** written notice to that effect at least 30 days before the Expiration Date set forth in ITEM 2 of the Declarations.

#### S. ACTION AGAINST THE COMPANY

1. With respect to any **Claim** covered by this **Community Association Management Liability Coverage Policy**, if the Company disclaims liability or denies coverage based upon the failure to provide timely notice, then the injured person or other claimant may maintain an action directly against the Company, provided that the sole question is whether the Company's disclaimer of liability or denial of coverage is based on the failure to provide timely notice, unless within 60 days of such disclaimer or denial, the Company or any **Insured**:
  - a. initiates an action to declare the rights of the parties under this **Community Association Management Liability Coverage Policy**; and
  - b. names the injured person or other claimant as a party to the action.
2. Except as set forth in paragraph 1. above, no person or organization has any right under this **Community Association Management Liability Coverage Policy** to join the Company as a party to any action against the **Insured** to determine the **Insured's** liability, nor may the Company be impleaded by an **Insured** or said **Insured's** legal representative.
3. Bankruptcy or insolvency of any **Insured** or an **Insured's** estate does not relieve the Company of any of its obligations hereunder.
4. No action will lie against the Company by an **Insured** for the recovery of any settlement or judgment against that **Insured** unless 30 days has elapsed following such settlement or judgment.

#### T. CHANGES

Only the **Named Insured** is authorized to make changes in the terms of this **Community Association Management Liability Coverage Policy** and solely with the Company's prior written consent. This **Community Association Management Liability Coverage Policy's** terms can be changed, amended or waived only by endorsement issued by the Company and made a part of this **Community Association Management Liability Coverage Policy**. Notice to any representative of the **Insured** or knowledge possessed by any agent or by any other person will not effect a waiver or change to any part of this **Community Association Management Liability Coverage Policy**, or estop the Company from asserting any right under the terms, conditions and limitations of this **Community Association Management Liability Coverage Policy**, nor may the terms, conditions and limitations hereunder be waived or changed, except by a written endorsement to this **Community Association Management Liability Coverage Policy** issued by the Company.

#### U. ASSIGNMENT

This **Community Association Management Liability Coverage Policy** may not be assigned or transferred, and any such attempted assignment or transfer is void and without effect unless the Company has provided its prior written consent to such assignment or transfer.

#### V. REPRESENTATIONS

By acceptance of the terms set forth in this **Community Association Management Liability Coverage Policy**, each **Insured** represents and agrees that the statements contained in the **Application**, which is deemed to be attached hereto, incorporated herein, and forming a part hereof, are said **Insured's** agreements and representations, that such representations are material to the Company's acceptance of this risk, that this **Community Association Management Liability Coverage Policy** is issued in reliance upon the truth of such representations, and embodies all agreements existing between said **Insured** and the Company or any of its agents.

If any statement or representation in the **Application** is untrue, this **Community Association Management Liability Coverage Policy** is void and of no effect whatsoever, but only with respect to:

1. any **Insured Person** who knew, as of the Inception Date set forth in ITEM 2 of the Declarations, that the statement or representation was untrue;
2. any **Insured Organization**, with respect to its indemnification coverage, to the extent it indemnifies any **Insured Person** referenced in 1. above; and
3. any **Insured Organization**, if the person who signed the **Application** knew that the statement or representation was untrue.

Whether an **Insured Person** had such knowledge will be determined without regard to whether the **Insured Person** actually knew the **Application**, or any other application completed for this **Community Association Management Liability Coverage Policy**, contained any such untrue statement or representation.

No misrepresentation will be deemed material unless knowledge by the Company of facts misrepresented would have led to a refusal by the Company to accept the risk.

#### **W. LIBERALIZATION**

If, during the **Policy Period**, the Company is required, by law or by insurance supervisory authorities of the state in which this **Community Association Management Liability Coverage Policy** was issued, to make any changes in the form of this **Community Association Management Liability Coverage Policy**, by which the insurance afforded by this **Community Association Management Liability Coverage Policy** could be extended or broadened without increased premium charge by endorsement or substitution of form, then such extended or broadened insurance will inure to the benefit of the **Insured** as of the date the revision or change is approved for general use by the applicable department of insurance.

#### **X. AUTHORIZATION**

By acceptance of the terms herein, the **Named Insured** agrees to act on behalf of all **Insureds** with respect to the payment of premiums, the receiving of any return premiums that may become due hereunder, and the receiving of notices of cancellation, nonrenewal, or change of coverage, and the **Insureds** each agree that they have, individually and collectively, delegated such authority exclusively to the **Named Insured**; provided that nothing herein will relieve the **Insureds** from giving any notice to the Company that is required under this **Community Association Management Liability Coverage Policy**.

#### **Y. ENTIRE AGREEMENT**

This **Community Association Management Liability Coverage Policy**, including the Declarations, the **Application**, and any endorsements attached thereto, constitute the entire agreement between the Company and the **Insured**.

#### **Z. HEADINGS**

The titles of the various paragraphs of this **Community Association Management Liability Coverage Policy** and its endorsements are inserted solely for convenience or reference and are not to be deemed in any way to limit or affect the provision to which they relate.