

DIRECTORS AND OFFICERS LIABILITY COVERAGE CONDOMINIUM AND COMMUNITY ASSOCIATIONS

THIS FORM PROVIDES CLAIMS-MADE COVERAGE. DEFENSE COSTS ARE INCLUDED WITHIN THE LIMITS OF INSURANCE. PLEASE READ THE ENTIRE FORM CAREFULLY.

Throughout this endorsement the words "you" and "your" refer to the Named Insured shown in the Declarations and any other person or organization qualifying as a Named Insured under this endorsement. The words "we", "us" and "our" refer to the Company providing this insurance. The word "insured" means any person or organization qualifying as such under **SECTION II – WHO IS AN INSURED.**

SECTION I – DIRECTORS AND OFFICERS CONDOMINIUM AND COMMUNITY ASSOCIATIONS LIABILITY COVERAGE

I. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as compensatory damages because of any "wrongful act" to which this insurance applies. We will have the right and duty to defend any "suit" seeking those damages. We may at our discretion investigate any "wrongful act" and settle any claim or "suit" that may result. But:
 - (1) The amount we will pay is limited as described in **(SECTION III) – LIMITS OF INSURANCE**; and
 - (2) Our right and duty to defend end when we have used up the applicable limit of insurance by any payment including but not limited to any payment toward judgment, settlement, or "defense expense."
- b. This insurance applies to "wrongful acts" committed at any time prior to the end of the coverage period, but only if:
 - (1) The "wrongful act" took place in the "coverage territory"; and
 - (2) The "wrongful act" took place after the Retroactive Date as shown in the Declarations; and
 - (3) A claim for compensatory damages because of the "wrongful act" is first made against any insured, in accordance with paragraph c. below, during the policy period or any Extended Reporting Period we provide under **CONDITIONS – Extended Reporting Period (SECTION V)**.
- c. A claim by a person or organization seeking compensatory damages will be deemed to have been made at the earlier of the following times:
 - (1) When notice of such claim is received by an insured or by us, whichever comes first; or
 - (2) When we make a settlement in accordance with paragraph a. above.

All claims arising out of the same or related "wrongful acts" will be deemed to have been made at that time the first of these claims is made against any insured.

2. Exclusions

The insurance provided by this endorsement does not apply to:

- a. "Bodily Injury", "property damage", "personal injury" or "advertising injury."
- b. Punitive or exemplary damages.
- c. Damages resulting from:
 - (1) A "wrongful act" which results in any insured gaining personal profit, remuneration or advantage to which such insured is not legally entitled.
 - (2) Any dishonest, fraudulent, criminal or malicious act, error or omission committed by or with the knowledge or consent of any insured.
 - (3) The failure of any person to effect or maintain acceptable amounts, forms, conditions or provisions of any insurance or bonds.

- (4) Any violations of the Employee Retirement Income Security Act of 1974, the Pension Reform Act of 1974, or similar provisions of any Federal, state or local statutory or common law.
 - (5) Operations (including but not limited to construction, design, survey and engineering services) performed by or on behalf of the builder, sponsor or developer of the property designated in the Declarations.
 - (6) The failure of any insured to enforce the rights of the Named Insured against the builder, sponsor, or developer of the property designated in the Declarations.
 - (7) Discrimination.
 - (8) The "wrongful act" of any developer/sponsor who is an officer or member of the board of directors of the condominium or other community association.
 - (9) Any claim or "suit" made by any insured against another insured.
 - (10) Employment-related practices, policies, acts or omissions.
- d. Damages resulting from:
- (1) The actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" or asbestos.
 - (2) Any request, demand or order 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 "pollutants" or asbestos.
 - (3) Any claim or "suit" by or on behalf of a governmental authority because of testing for, monitoring, cleaning up, removing, containing, detoxifying or neutralizing or in any way responding to or assessing the effects of "pollutants" or asbestos.
- "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned, or reclaimed.
- e. Damages resulting from:
- (1) Any claim made or "suit" brought prior to or pending as of the Retroactive Date, as shown in the Declarations.
 - (2) Any subsequent claims made or "suits" brought which arise from or are based upon substantially the same matters as alleged in the pleadings of such prior or pending claims or "suits".
 - (3) Any act of any insured which gave rise to such prior or pending claim or "suit".
 - (4) Any claim or "suit" which may be reasonably anticipated as of the Retroactive Date as shown in the Declarations.

SECTION II - WHO IS AN INSURED

- a. If you are named in the declarations, you are an insured.
- b. Your directors, trustees or officers are also insureds, but only while acting within the scope of their duties for you. This includes:
 - (1) Those who currently are directors, trustees or officers;
 - (2) Those who were directors, trustees or officers when the "wrongful act" took place;
 - (3) Those who become directors, trustees or officers after the effective date of this insurance, but only for subsequent "wrongful acts."
- c. Your employees and members are insureds, but only while acting at your direction and within the scope of their duties for you.
- d. Any independent management organization under a written contractual agreement solely with the Insured Organization (a "property manager") and any director, officer or employee of a "property manager" but only while performing property management services for the Insured Organization which are enumerated in such written contractual agreement.

SECTION III - LIMITS OF INSURANCE

- a. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - (1) Insureds
 - (2) Claims made or "suits" brought;
 - (3) Persons or organizations making claims or bringing "suits."

- b. The limit of Insurance shown in the Declarations as "Annual Aggregate" is the most we will pay for all damages and "defense expense" for all claims made during the Coverage Period shown in the Declarations.
- c. Subject to b. above, the Limit of Insurance shown as "Each Claim" is the most we will pay for damages and "defense expense" arising out of any one claim. For the purposes of determining the Limit of Insurance, all claims arising out of the same or related "wrongful acts" will be considered as one claim.

SECTION IV – RETENTION

For "Each Claim" we shall only be liable for the amount of compensatory damages and "defense expense" arising from a claim made or "suit" brought which is in excess of the applicable "Retention" amount shown in the Declarations, such retention amount to be borne by you and remain uninsured.

SECTION V - CONDITIONS

a. Extended Reporting Period

- (1) If this insurance is canceled or non renewed for any reason other than nonpayment of premium, we will provide an Extended Reporting Period of one year. This Extended Reporting Period does not extend the coverage period or change the scope of the coverage provided. It applies only to claims for "wrongful acts" committed before the end of the coverage period and subsequent to the Retroactive Date.
- (2) The Extended Reporting Period does not apply to claims that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.
- (3) The Extended Reporting Period does not reinstate or increase the Limits of Insurance.
- (4) Your right to purchase the Extended Reporting Period must be exercised by notice in writing not later than sixty (60) days following the non-renewal or cancellation date of this Directors & Officers Liability Endorsement.

b. Bankruptcy

Bankruptcy or insolvency on the part of the insured will not relieve us of our obligations under this insurance.

c. Insured's Duties In The Event Of A Wrongful Act, Claim, or Suit

- (1) In the event of a "wrongful act". You must see to it that we are notified as soon as is practicable. To the extent possible, notice should include:
 - (a) How, when and where the "wrongful act" took place;
 - (b) The nature of the "wrongful act"; and
 - (c) The names and addresses of injured parties and witnesses.Notice of such a "wrongful act" does not constitute notice of a claim.
- (2) If a claim is received by any insured, you must immediately record the specifics of the claim and the date received, and notify us immediately. Written notice must be provided as soon as is practicable.
- (3) You and any other involved insured must:
 - (a) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim of a "suit";
 - (b) Authorize us to obtain records and other information;
 - (c) Cooperate with us in the investigation of any "wrongful act", or the investigation, settlement or defense of the claim or "suit"; and
 - (d) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to any insured because of damages to which this insurance applies.
- (4) No insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.

d. Legal Action Against Us

No person or organization has a right under this insurance:

COMMERCIAL GENERAL LIABILITY

- (1) To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- (2) To sue us on this insurance unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

e. Other Insurance

This insurance is excess over any other valid and collectible insurance available to any insured, whether primary, excess, contingent, or on any other basis, unless such other insurance was purchased specifically to be excess over the limits of insurance this insurance provides.

f. Changes

This endorsement contains all of the agreements between you and us concerning the insurance afforded under this endorsement. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this insurance with our consent. This endorsement's terms can be amended or waived only by endorsement issued specifically to amend this insurance.

g. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

h. Conformity To Statute

The terms of this insurance which are in conflict with the statutes of the state wherein this insurance is delivered are hereby amended to conform to such statutes.

i. Representations

By accepting this insurance you agree:

- (1) The statements in the application are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this insurance in reliance upon your representations.

SECTION VI - Definitions

- a. "Advertising injury" means injury arising out of one or more of the following offenses:
 - (1) Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - (2) Oral or written publication of material that violates a person's right to privacy;
 - (3) Misappropriation of advertising ideas or style of doing business; or
 - (4) Infringement of copyright, title or slogan.
- b. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
- c. "Coverage territory" means the United States of America (including its territories and possessions), Puerto Rico and Canada.
- d. "Defense expense" means fees charged by (an) attorney(s) designated or approved in writing by us and all other fees, cost, and expenses resulting from the investigation, adjustment, defense and appeal of a claim, "suit" or proceeding arising in connection therewith, if incurred by us or by an insured with our written consent.
- e. "Personal injury" means injury, other than "bodily injury," arising out of one or more of the following offenses:

COMMERCIAL GENERAL LIABILITY

- (1) False arrest, detention or imprisonment;
 - (2) Malicious prosecution;
 - (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;
 - (4) Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
 - (5) Oral or written publication of material that violates a person's right of privacy.
- f. "Property damage" means:
- (1) Physical injury to tangible property, including all resulting loss of use of that property;
 - (2) Loss of use of tangible property that is not physically injured; or
 - (3) Diminution of property value.
- g. "Suit" means a civil proceeding in which damages because of a "wrongful act" to which this insurance applies are alleged. "Suit" includes:
- (1) An arbitration proceeding in which such damages are claimed and to which you must submit or do submit with our consent; or
 - (2) Any other alternative dispute resolution proceeding in which such damages are claimed and to which you submit with our consent.
- h. "Wrongful act" means any actual or alleged error, mistake, misstatement or misleading statement, act, omission or neglect or breach of duty by any insured.