



Protection for Community Association LeadersSM Directors & Officers Liability Coverage Section

In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions Section, and the limitations, conditions, provisions and other terms of this Coverage Section, the Company and the Insureds agree as follows:

I. INSURING CLAUSE

The **Company** shall pay on behalf of an **Insured** all **Loss** which such **Insured** becomes legally obligated to pay on account of any **Claim** first made against such **Insured** during the **Policy Period** or, if exercised, during the Extended Reporting Period, for:

- (a) a **Wrongful Act**;
- (b) **Employment Practices**; or
- (c) **Personal Injury or Publishers Liability**;

committed, attempted, or allegedly committed or attempted, by such **Insured** before or during the **Policy Period**.

II. DEFINITIONS

For the purposes of this Coverage Section:

(A) **Claim** means a:

- (1) written demand for monetary damages;
- (2) civil proceeding commenced by the service of a complaint or similar pleading;
- (3) criminal proceeding commenced by a return of an indictment; or
- (4) formal civil administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document;

against an **Insured** for a **Wrongful Act**, including any appeal therefrom.

(B) **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 any of the following: faulty or incorrect design or architectural plans; improper soil testing; inadequate or insufficient protection from subsoil or earth movement or subsidence; construction, manufacture or assembly of any tangible property; failure to provide construction-related goods or services as represented or to pay for such goods or services; or supervision of such activities.

(C) **Defense Costs** means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to attorney's fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of the trustees, committee members, volunteers, directors, officers or employees of an **Insured Organization, Property**



Protection for Community Association LeadersSM Directors & Officers Liability Coverage Section

investigation or evaluation of a **Claim** or potential **Claim** by or on behalf of any **Insured Organization**;

- (4) taxes, fines or penalties (including punitive or exemplary damages), or the multiple portion of any multiplied damage award;
- (5) the future compensation or benefits of a claimant who has been or shall be hired, promoted or reinstated to employment pursuant to a settlement order or other resolution of such **Claim**; or
- (6) any monetary payment pursuant to a notice period under any applicable law, including the Worker Adjustment and Retraining Notification Act or any amendments thereunder, or any similar provisions of any federal, state or local statutory law or common law.

(J) **Personal Injury or Publishers' Liability** means a **Wrongful Act** constituting false arrest; wrongful detention or imprisonment; malicious prosecution; defamation; invasion of privacy; wrongful entry or eviction; infringement of copyright, trademark, trade name, trade dress or service mark; unauthorized use of title; plagiarism; or misappropriation of ideas or trade secrets.

(K) **Pollutants** means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by, the United States Environmental Protection Agency or any state, county, municipality or local counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants, smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products and any noise.

(L) **Property Damage** means the:

- (1) damage or destruction of any tangible property; or
- (2) the loss of use of tangible property whether or not such property is damaged or destroyed.

(M) **Property Manager Wrongful Act** means any error, misstatement, misleading statement, act, omission, neglect or breach of duty committed, attempted or allegedly committed or attempted by a **Property Manager**, but only in the sole capacity of providing real estate property management services to an **Insured Organization** and only where such **Property Manager** was acting at the specific direction of the **Insured Organization**.

(N) **Specified Peril** means aircraft or self-propelled missiles; explosion; fire or lightning; silt accumulation; flood, surface water, waves, tidal water, overflow of a body of water or spray from any of these, even if driven by wind; lead contamination, including but not limited to lead paint; mold contamination, including but not limited to any fungi, mildew, yeast or bacteria, or dust or spores resulting from any of these, from any source; hail; leakage from fire equipment; mechanical breakdown; smoke; soil, subsoil or earth



Protection for Community Association LeadersSM Directors & Officers Liability Coverage Section

shall not apply to any **Claim** for wrongful dismissal, discharge or termination of employment of any **Insured Person** in retaliation for such **Insured Person's** actual or threatened disclosure of the matters described in (i) or (ii) of this Exclusion (A)(5);

- (6) any written, oral, express or implied contract or agreement, including but not limited to any employment contract; provided that this Exclusion (A)(6) shall not apply to: (i) that part of **Loss** which constitutes **Defense Costs**; or (ii) any **Claim** brought by or on behalf of any member of the **Insured Organization** which is based upon, arising from, or in consequence of any actual or alleged breach of an **Insured Organization's** covenants, conditions and restrictions ("CC&R's") or by-laws; or
- (7) any theft, conversion, embezzlement, breach of fidelity, or breach of contract by any **Property Manager**.

(B) The **Company** shall not be liable for **Loss** on account of any **Claim**:

- (1) for an actual or alleged violation of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act (except the Equal Pay Act), the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act, amendments to or rules or regulations promulgated pursuant to these laws, or similar provisions of any federal, state or local statutory law or common law; provided, that this Exclusion (B)(1) shall not apply to any **Claim** for retaliatory treatment of an **Insured Person** with respect to actual or threatened disclosures by such **Insured Person** of any actual or alleged violation of the Fair Labor Standards Act or the Occupational Safety and Health Act;
- (2) for liability of others assumed by any **Insured** under any written, oral, express or implied contract or agreement except to the extent that an **Insured Organization** would have been liable in the absence of the contract or agreement;
- (3) made against any **Insured** which directly or indirectly relates, in whole or in part, to such **Insured's** capacity as:
 - (a) a builder, developer, declarant or sponsor of the planned community, or
 - (b) an affiliate of a builder, developer, declarant or sponsor of the planned community;

including but not limited to any **Claim** based upon, arising from, or in consequence of any actual or alleged conflict of interest, self-dealing, or disputes

relating to the construction or development of the planned community, the implementation and/or collection of assessments, or the establishment and/or maintenance of reserve accounts;



Protection for Community Association LeadersSM Directors & Officers Liability Coverage Section

conditions, provisions and other terms of coverage (including the Deductible Amount) applicable to such **Insured Person's Loss** shall also be applicable to such spousal loss. However, coverage shall not apply to the extent any **Claim** alleges any act or omission by such **Insured Person's** spouse.

V. EXTENDED REPORTING PERIOD

If this Coverage Section is terminated or not renewed for any reason other than non-payment of premium, the **Parent Corporation** shall have the right, upon payment of the additional premium set forth in Item 6(B) of the Declarations, to an extension of the coverage granted by this Coverage Part for the period set forth in Item 6(A) of the Declarations (Extended Reporting Period) following the effective date of termination or nonrenewal, but only for a **Wrongful Act** committed, attempted, or allegedly committed or attempted, prior to the effective date of termination or nonrenewal. This right of extension shall lapse unless written notice of such election, together with payment of the additional premium due, is received by the **Company** within sixty (60) days following the effective date of termination or nonrenewal. Any **Claim** made during the Extended Reporting Period shall be deemed to have been made during the immediately preceding **Policy Year**. The entire additional premium paid for such Extended Reporting Period shall be deemed fully earned as of the inception of the Extended Reporting Period.

VI. LIMITS OF LIABILITY AND DEDUCTIBLE

- (A) The **Company's** maximum liability for all **Loss** from each **Claim** or **Related Claims** for which coverage is provided under this Coverage Section is set forth in Item 4(A)(1) of the Declarations. The **Company's** maximum liability for all **Loss** from all **Claims** first made during the same **Policy Year**, and for which coverage is provided under this Coverage Section, shall be the Limit of Liability for each **Policy Year** set forth in Item 4(A)(2) of the Declarations.
- (B) The Limit of Liability for the Extended Reporting Period shall be part of and not in addition to the applicable Limits of Liability for the **Policy Year** immediately preceding the expiration of the **Policy Period**.
- (C) The **Company's** liability under this Coverage Section shall apply only to that part of **Loss** arising from each **Claim** or **Related Claims** which is excess of the applicable Deductible Amount set forth in Item 4(B) of the Declarations. If different parts of a single **Claim** are subject to different Deductible Amounts, the applicable Deductible Amounts will be applied separately to each part of such **Claim**, but the sum of such Deductible Amounts shall not exceed the largest applicable Deductible Amount. Such Deductible Amount shall be borne by the **Insureds** uninsured and at their own risk.
- (D) The Deductible Amount for Non-Indemnifiable **Loss** set forth in Item 4(B)(1) of the Declarations shall apply to **Loss** incurred by any **Insured Person** for which no **Insured Organization** is permitted or required to indemnify, or is permitted or required to indemnify but does not do so by reason of **Financial Impairment**. The Deductible



Protection for Community Association LeadersSM Directors & Officers Liability Coverage Section

- (A) The **Company** shall have the right and duty to defend any **Claim** covered by this Coverage Section seeking pecuniary or non-pecuniary relief. Coverage shall apply even if any of the allegations are groundless, false or fraudulent.
- (B) The **Company** may make any investigation it deems necessary and may, with the consent of the **Insured**, make any settlement of any **Claim** it deems expedient. If such **Insured** withholds consent to any settlement acceptable to the claimant in accordance with the **Company's** recommendation (a "Proposed Settlement"), the **Company's** liability for all **Loss**, including **Defense Costs**, on account of such **Claim** shall not exceed the amount of the Proposed Settlement plus **Defense Costs** accrued as of the date such Proposed Settlement was proposed in writing by the **Company** to the **Insured**.
- (C) **Defense Costs** are part of and not in addition to the applicable Limit of Liability set forth in Item 4(A) of the Declarations, and the payment by the **Company** of **Defense Costs** reduces such applicable Limit of Liability.
- (D) No **Insured** shall settle any **Claim**, incur any **Defense Costs**, assume any contractual obligation or admit any liability with respect to any **Claim** without the **Company's** written consent, which shall not be unreasonably withheld. The **Company** shall not be liable for any settlement, **Defense Costs**, assumed obligation or admission to which it has not consented.
- (E) The **Company** will have no obligation to pay **Loss**, including **Defense Expenses**, or to defend or continue to defend any **Claim** after the **Company's** applicable Limit of Liability with respect to such **Claim** has been exhausted by the payment of **Loss**. If the **Company's** Limit of Liability for this Coverage Section is exhausted by the payment of **Loss** prior to the expiration of this Policy, the premium for this Coverage Section will be deemed fully earned.

IX. OTHER INSURANCE

If **Loss** arising from a **Claim** made against any **Insured** is insured under any other valid and collectible insurance policy(ies), prior or current, including but not limited to any general liability policy, then this Coverage Section shall cover such **Loss**, subject to its limitations, conditions, provisions and other terms, only to the extent that the amount of such **Loss** is in excess of the amount of payment from such other insurance, whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the Limit of Liability provided in this Coverage Section.

X. ESTATES AND LEGAL REPRESENTATIVES

Subject to the limitations, conditions, provisions and other terms of this Coverage Section, coverage shall extend to **Claims** for **Wrongful Acts of Insured Persons** where such **Claims** are made against the estates, heirs, legal representatives or assigns of **Insured Persons** who are deceased, or against the legal representatives or assigns of **Insured Persons** who are incompetent, insolvent or bankrupt.