

Association Annual Disclosure pursuant to §38-33.3-209.4(2), C.R.S.

Confluence at Two Rivers Community Association, Inc.

Designated Agent:

Marchetti & Weaver, LLC

28 Second St, Suite 213, Edwards CO 81632

970-926-6060

Magdalena Gembal, magdalena@mwcpaa.com; (970) 926-6060 ext 107

Declaration recorded in Eagle County on November 10, 2025, 292094

- 1) Fiscal Year Commences: January 1, 2026
- 2) Current Year Budget for: 2026
- 3) List of current Regular and Special Assessments, by unit type (may be included with budget)
- 4) Prior Year Annual Financial Statements, including Reserve Funds, if applicable
- 5) Most Recent audit or financial review – Confluence at Two Rivers Comm. Assoc. did not have an audit or financial review in 2025.
- 6) Association Insurance Policies: see attached Summary of Policies Attached
- 7) Association Governing Documents (Article of Inc., Bylaws, Declaration, Rules & Regulations)
- 8) Association Responsible Governance Policies under 38-33.3-209.5
 - i. Adoption and Amendment Procedure
 - ii. Collections of unpaid assessments
 - iii. Conduct of meeting
 - iv. Conflict of Interest Policy
 - v. Enforcement of covenants and rules
 - vi. Dispute Resolution Policy and Procedure
 - vii. Investment of reserve funds
 - viii. Personal Identifying Information, Data Security and Breach Notification Policy
 - ix. Records Inspection Policy and Procedure
 - x. Registration of Phone Number and Email Address
 - xi. Request for Access to Association Record
 - xii. Reserve study requirements
- 9) Prior Year Minutes of Executive Board and Member meetings

Association Annual Disclosure pursuant to §38-33.3-209.4(2), C.R.S.

Confluence at Two Rivers Community Association
28 2nd St, unit 213, Edwards CO 81632

Current Regular and Special Assessments, Fees and Charges:

1) Assessment:

<u>Unit Type</u>	<u>Annual Assessment</u>	<u>Count</u>	<u>Total Assessed</u>
Lot/Residence	\$1,765	46 projected	\$47,390 projected
Period covering: 1/1 – 12/31			

2) Working Capital \$294.11, Special Assessments: \$0

3) Title Statement preparation fee: \$210

4) Record Change Fee: \$0

5) Document Access Fee: \$0 -available at website www.confluence-ca.com

	C	D	E	F	G
88					
89	Operating Fund				
90	ASSETS	12/31/25			
91	Current Assets:				
92	Bank Account- Operating	9,660			
93	Bank Account- Reserve	0			
95	Total Cash in Bank	9,660			
96					
97	Accounts Receivable	2,875			
98	Other Receivables	0			
99	Allowance for Doubtful Accounts	0			
100	Prepays	1,508			
101	Due From (To) Reserve Fund	(89)			
103	TOTAL ASSETS	13,955			
104					
105	LIABILITIES & FUND EQUITY				
106	Liabilities:				
107	Accounts Payable	8,194			
108	Deferred Revenue	4,412			
110	Total Liabilities	12,606			
111					
112	Fund Equity				
113	Working Capital Reserve	2,828			
114	Fund Balance	(1,479)			
116	Total Fund Equity	1,349			
117					
118	Total Liabilities & Fund Equity	13,955			
119	No assurance is provided on these financial statements; substantially all disclosures required by GAAP omitted.				=
120					

COMMERCIAL LINES POLICY - COMMON POLICY DECLARATIONS

NAUTILUS INSURANCE COMPANY

Scottsdale, Arizona

Transaction Type: New

Policy No. NN1931194

Renewal of Policy # _____
Rewrite of Policy # _____
Cross Ref. Policy # _____
NIC Quote # _____

Inspection Ordered:
[] Yes [X] No

THIS CONTRACT IS DELIVERED AS A SURPLUS LINE COVERAGE UNDER THE 'NONADMITTED INSURANCE ACT'. THE INSURER ISSUING THIS CONTRACT IS NOT LICENSED IN COLORADO BUT IS AN ELIGIBLE NONADMITTED INSURER. THERE IS NO PROTECTION UNDER THE PROVISIONS OF THE 'COLORADO INSURANCE GUARANTY ASSOCIATION ACT'.

Named Insured and Mailing Address

(No., Street, Town or City, County, State, Zip Code)
Confluence at Two Rivers Community Association Inc
30 Buffalo Cir
Gypsum CO 81637

Agent and Mailing Address Agency No. 0516-00

(No., Street, Town or City, County, State, Zip Code)
RISK PLACEMENT SERVICES, INC
7900 E Union Ave., Suite 1011
Denver CO 80237

JOHN TERRILL

Surplus Lines Licensed Producer

Policy

Period: From 12/04/2025 to 12/04/2026 at 12:01 A.M. Standard Time at your mailing address shown above.

Business Description: Homeowners Association

Tax State CO

Form of Business: Organization Including Corporation

NO FLAT CANCELLATION

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE WILL PROVIDE YOU THE INSURANCE STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

Table with columns for Coverage Part, Premium, and Tax & Fee Schedule. Includes rows for Commercial General Liability Coverage Part, Broker Fee, Surplus Lines Tax, Clearinghouse Fee, and TOTAL ADVANCE PREMIUM.

Form(s) and Endorsement(s) made a part of this policy at time of issue:
Refer to Schedule of Forms and Endorsements.

Kevin Doyle
#819747

Countersigned: Denver, CO
12/10/2025 PKJETHE
JTE

By _____
Countersignature or Authorized Representative, whichever is applicable

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS, COVERAGE PART COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

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Nautilus Insurance Company®

An Arizona Stock Corporation

COMMERCIAL LINES POLICY

THIS POLICY IS NOT OBTAINED PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

THIS POLICY CONSISTS OF:

- Declarations;
- Common Policy Conditions; and
- One or more Coverage Parts. A Coverage Part consists of:
 - One or more Coverage Forms; and
 - Applicable Forms and Endorsements.

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.



W. Robert Berkley, Jr.
President



Philip S. Welt
Secretary

Administrative Office: 7233 East Butherus Drive, Scottsdale, Arizona 85260 (480) 509-6627

Policy Issuing Office: 7233 East Butherus Drive, Scottsdale, Arizona 85260 (480) 951-0905

POLICY NUMBER: NN1931194

Named Insured: Confluence at Two Rivers Community Association Inc

SCHEDULE OF FORMS AND ENDORSEMENTS

COMMON POLICY

E001	(02/14)	Nautilus Insurance Company Common Policy
		Declarations
E001J	(07/20)	Nautilus Insurance Company Commercial Lines
		Policy Jacket
E609	(09/21)	Economic or Trade Sanctions Endorsement
E915	(09/21)	U.S. Treasury Department's Office of Foreign
		Assets Control (OFAC) Advisory Notice to
		Policyholders
IL0017	(11/98)	Common Policy Conditions
S013	(07/09)	Minimum Earned Premium Endorsement
E919	(09/23)	Privacy Notice

STATE

E906CO	(07/22)	Service of Suit - Colorado
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COMMERCIAL GENERAL LIABILITY

S150	(06/23)	Commercial General Liability Coverage Part
		Declarations
CG0001	(04/13)	Commercial General Liability Coverage Form
		(Occurrence Version)
CG2017	(12/19)	Additional Insured - Unit-Owners of
		Townhouse or Homeowner Associations
CG2147	(12/07)	Employment-Related Practices Exclusion
CG2173	(01/15)	Exclusion of Certified Acts of Terrorism
CG2196	(03/05)	Silica or Silica-Related Dust Exclusion
IL0021	(09/08)	Nuclear Energy Liability Exclusion
		Endorsement (Broad Form)
L210	(05/24)	Exclusion - All Assault or Battery
L216	(04/16)	Amendment of Definitions - Insured Contract
		(Limited Form)
L217	(06/17)	Exclusion - Punitive or Exemplary Damages
L223	(03/23)	Total Exclusion - Pollution
L238	(02/23)	Exclusion - Toxic Metals
L241	(07/09)	Exclusion - Microorganisms, Biological
		Organisms, Bioaerosols or Organic
		Contaminants
L318	(04/19)	Exclusion - Events
L333	(02/23)	Exclusion - Animals
L343	(06/20)	Exclusion - Unmanned Aircraft, Other Than
		Unmanned Aircraft, Auto or Watercraft
		(Limited)
L380	(03/22)	Exclusion - Cyber Incident
L378	(02/21)	Exclusion - Swimming Pools
L369	(09/21)	Exclusion - Communicable or Infectious
		Disease
L408	(03/12)	Changes - Civil Union Or Domestic Partnership
L411	(07/22)	Privacy Breach Coverage

The forms and endorsements shown on this Schedule constitute the entire policy at the time of issuance.

POLICY NUMBER: NN1931194

Named Insured: Confluence at Two Rivers Community Association Inc

SCHEDULE OF FORMS AND ENDORSEMENTS

L601	(11/20)	Amendment of Conditions - Premium Audit
L501	(03/25)	Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Exclusion
L502	(09/24)	Exclusion - Biometric Information
L508	(09/24)	Exclusion - Human Trafficking
L850	(06/23)	Deductible Liability Insurance (Including Supplementary Payments)
S033	(08/25)	Exclusion - Cross Claims or Suits
S038	(04/16)	Amendment of Liquor Liability Exclusion
S071	(05/25)	Exclusion - Directors and Officers Liability
S261	(07/09)	Exclusion - Asbestos

The forms and endorsements shown on this Schedule constitute the entire policy at the time of issuance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ECONOMIC OR TRADE SANCTIONS ENDORSEMENT

No insurer shall be deemed to provide cover and no insurer shall be liable to defend any claim, pay any claim or provide any benefit under this policy to the extent that the provision of such cover, defense, payment or benefit would expose that insurer to any sanction, prohibition or restriction under any economic or trade sanctions laws or regulations of the United States of America, Canada, United Kingdom or European Union. Affected policy provisions also include, but are not limited to, those relating to cancellation, nonrenewal, premium or payments.

Economic or trade sanctions laws or regulations shall include, but not be limited to, those laws or regulations administered and enforced by the United States Department of Treasury's Office of Foreign Assets Control ("OFAC").

All other terms and conditions remain unchanged.

U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC) ADVISORY NOTICE TO POLICYHOLDERS

PLEASE READ THIS NOTICE CAREFULLY.

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to economic or trade sanctions laws or regulations of the United States of America that are administered and enforced by the Office of Foreign Assets Control ("OFAC").

OFAC administers and enforces sanctions policy under federal law and/or Presidential declarations of national emergency. Based on economic and trade sanctions laws and regulations of the United States, Canada, United Kingdom, European Union, and other governments, OFAC maintains and publishes a list of foreign governments and agents, front organizations, terrorists, terrorist organizations and narcotics traffickers as Specially Designated Nationals. This list can be located on the United States Treasury's web site: <http://www.treasury.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments or premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply, including payments of policy benefits to third parties.

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

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

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and
- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

POLICY NUMBER: NN1931194

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MINIMUM EARNED PREMIUM ENDORSEMENT

If this policy is cancelled at your request, there will be a minimum earned premium retained by us of \$ _____ or 25 % of the premium for this insurance, whichever is greater.

Non-payment of premium is considered a request by the first Named Insured for cancellation of this policy.

If a policy fee, inspection fee or expense constant is applicable to this policy, they will be fully earned and no refund will be made.

All other terms and conditions of this policy remain unchanged.

PRIVACY NOTICE

W. R. Berkley Corporation Notice of Privacy Policies

For information about our Privacy Policies and how we collect, use, and share personal information, and to make a consumer request, please see our online Privacy Policy at: <https://www.berkley.com/privacy>.

For information about how we collect, use, and share and disclose personal information about California consumers' rights under the CCPA, and to make a consumer request, please see our California Consumer Privacy Policy at: <https://www.berkley.com/privacy#californiaCollectionAtNotice>.

If you would like to receive a paper copy of this Notice and/or our Privacy Policies, please contact us at either escenter@wrberkley.com or 480-509-6627.

SERVICE OF SUIT – COLORADO

Pursuant to any statute of any state, territory or district of the United States which makes provision therefore, the Company providing this insurance hereby designates the Superintendent, Commissioner or Director of Insurance or other Officer specified for that purpose in the Statute, or his successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of you or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the above named as the person to whom the said Officer is authorized to mail such process or a true copy thereof.

It is further agreed that service of process in such suit may be made upon CT Corporation System at 7700 E Arapahoe Road, Suite 220, Centennial, CO 80112 and that in any suit instituted against the Company upon this policy, it will abide by the final decision of such Court or of any Appellate Court in the event of an appeal. Nothing herein shall constitute a selection or designation of forum, or a waiver of any of the Company's rights to select a forum or court, including any of the federal courts of the United States. This includes any right to commence an action in or remove or transfer an action to the United States District Court or any other court of competent jurisdiction, as permitted by law.

COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

POLICY NUMBER: NN1931194

Extension of Declarations is attached.

Effective Date: 12/04/2025

12:01 A.M. Standard Time

LIMITS OF INSURANCE

General Aggregate Limit (Other Than Products/Completed Operations)	\$	2,000,000
Products/Completed Operations Aggregate Limit	\$	Included
Personal and Advertising Injury Limit	\$	1,000,000 Any One Person Or Organization
Each Occurrence Limit	\$	1,000,000
Damage To Premises Rented To You Limit	\$	100,000 Any One Premises
Medical Expense Limit	\$	5,000 Any One Person

BUSINESS DESCRIPTION AND LOCATION OF PREMISES

BUSINESS DESCRIPTION: Homeowners Association

LOCATION OF ALL PREMISES YOU OWN, RENT, OR OCCUPY: Location address is same as mailing address.

1 30 Buffalo Circle, Gypsum, CO 81637

Any additional locations will be shown on **S170**, Commercial General Liability Coverage Part Declarations Extension.

CLASSIFICATION AND PREMIUM

LOC #	CODE #	CLASSIFICATION	*	PREMIUM BASIS	RATE		ADVANCE PREMIUM
					Prem/Ops	Prod/Comp Ops	
1	90507	Homeowners Association - Common Area Only	t+	8	11.504	Included	92 Included
	90793	L411-First Party Privacy Breach Cov-Med Hazard-Low Exposure			Flat		130

*** PREMIUM BASIS SYMBOLS** **+ = Products/Completed Operations are subject to the General Aggregate Limit**

a = Area (per 1,000 sq. ft. of area)	o = Total Operating Expenditures	s = Gross Sales (per \$1,000 of Gross Sales)
c = Total Cost (per \$1,000 of Total Cost)	(per \$1,000 Total Operating Expenditures)	t = See Classification
m = Admissions (per 1,000 Admissions)	p = Payroll (per \$1,000 of Payroll)	u = Units (per unit)

PREMIUM FOR THIS COVERAGE PART \$ 630 MP

FORMS AND ENDORSEMENTS (other than applicable Forms and Endorsements shown elsewhere in the policy)

Forms and Endorsements applying to this Coverage Part and made part of this policy at time of issue:
Refer to Schedule of Forms and Endorsements

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy 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 policy. 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.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(2) The "bodily injury" or "property damage" occurs during the policy period; and

(3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible; or
 - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
 - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

- (a) 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, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;

- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages 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 in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a.**, **b.** and **c.** of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

Any loss, cost or expense arising out of any:

- (1) 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, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within one year of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

- g.** All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2.** If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a.** The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b.** This insurance applies to such liability assumed by the insured;
 - c.** The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d.** The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - e.** The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - f.** The indemnitee:
 - (1)** Agrees in writing to:
 - (a)** Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b)** Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c)** Notify any other insurer whose coverage is available to the indemnitee; and
 - (d)** Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2)** Provides us with written authorization to:
 - (a)** Obtain records and other information related to the "suit"; and
 - (b)** Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

SECTION II – WHO IS AN INSURED

- 1.** If you are designated in the Declarations as:
 - a.** An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b.** A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c.** A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d.** An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e.** A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:
 - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
 - (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
 - (2) "Property damage" to property:
 - (a) Owned, occupied or used by;
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
 - b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
 - c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
 - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
 3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
- No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage **C**;
 - b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage **B**.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph **2.** above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph **2.** or **3.** above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage **A**; and
 - b. Medical expenses under Coverage **C**
 because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and

- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
 - (1) Immediately record the specifics of the claim or "suit" and the date received; and
 - (2) Notify us as soon as practicable.
 You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
 - c. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
 - d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part 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; but we will not be liable for damages that are not payable under the terms of this Coverage Part 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.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

(1) This insurance is excess over:

(a) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or

(iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

(2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

a. The statements in the Declarations are accurate and complete;

- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. 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 Coverage Part, 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.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement;
 - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. 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, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean 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.

16. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – UNIT-OWNERS OF TOWNHOUSE OR HOMEOWNER ASSOCIATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Section II – Who Is An Insured is amended to include as an additional insured each unit-owner, but only with respect to liability as a member of the homeowner or townhouse association shown in the Declarations as a Named Insured. However, no such unit-owner is an additional insured with respect to its liability arising out of the ownership, maintenance, use or repair of:

1. The real property to which the unit-owner has title;
or
2. That portion of the premises which is reserved for the unit-owner's exclusive use or occupancy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:

This insurance does not apply to:

"Bodily injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

This insurance does not apply to:

"Personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

A. The following exclusion is added:

This insurance does not apply to:

TERRORISM

"Any injury or damage" arising, directly or indirectly, out of a "certified act of terrorism".

B. The following definitions are added:

1. For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Part to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part.

2. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and

b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

c. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under this Coverage Part.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SILICA OR SILICA-RELATED DUST EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:

2. Exclusions

This insurance does not apply to:

Silica Or Silica-Related Dust

- a. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
- b. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
- c. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

Silica Or Silica-Related Dust

- a. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
 - b. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.
- C. The following definitions are added to the Definitions Section:**
1. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
 2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT

(Broad Form)

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:
 - A. Under any Liability Coverage, to "bodily injury" or "property damage":
 - (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
 - B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
 - C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:
 - (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
 - (3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.
2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material **(a)** containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a)** Any "nuclear reactor";
- (b)** Any equipment or device designed or used for **(1)** separating the isotopes of uranium or plutonium, **(2)** processing or utilizing "spent fuel", or **(3)** handling, processing or packaging "waste";

(c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – ALL ASSAULT OR BATTERY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability, Coverage B – Personal And Advertising Injury Liability, and Coverage C – Medical Payments:

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or medical payments arising out of any actual or alleged:

1. "Assault" or "battery" caused, directly or indirectly, by you, any insured, any person, any entity, or by any means whatsoever; or
2. Failure to suppress or prevent "assault" or "battery" by you, any insured, any person, any entity, or by any means whatsoever; or
3. Failure to provide an environment secure from "assault" or "battery"; or
4. Failure to warn of the dangers of the environment which could contribute to "assault" or "battery"; or
5. Use of any force to protect persons or property whether or not the "bodily injury", "property damage" or "personal and advertising injury" was intended from the standpoint of you, any insured, or any person, or committed by or at the direction of you, any insured or any person; or
6. Failure to render or secure medical treatment or care following any "assault" or "battery"; or
7. Death, including any allegations of wrongful death, arising out of items 1. through 6. listed above.

This exclusion applies:

1. Whether or not any claimed damages occurred at any premises owned or occupied by any insured;
2. To all causes of action arising out of any "assault" or "battery" including, but not limited to, allegations of negligent hiring, placement, training, or supervision, or to any act, error, or omission relating to such an "assault" or "battery";
3. To any claims or "suits" brought by any other person, firm or organization asserting rights derived from, contingent upon, or arising out of an "assault" or "battery"; and specifically excludes from coverage claims or "suits" for:
 - a. Emotional distress or for loss of society, services, consortium or income; or
 - b. Reimbursement for expenses including, but not limited to, medical expenses, hospital expenses, or wages, paid or incurred, by such other person, firm or organization; or
4. To any obligation to share damages with or repay someone who must pay damages because of the injury.

B. Exclusion a. Expected or Intended Injury of 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured.

C. We will have no duty to defend or indemnify any insured in any action or proceeding alleging damages arising out of any "assault" or "battery".

D. The following definitions are added to Section V – Definitions:

1. "Assault" includes but is not limited to sexual assault, physical, written or oral abuse, sexual abuse, intimidation, or any threatened harmful or offensive contact between two or more persons creating an apprehension in a person of immediate or imminent harmful or offensive contact; or an attempt to commit a "battery".
2. "Battery" includes but is not limited to physical abuse, sexual abuse, sexual battery, sexual molestation, hazing, physical altercation; or any harmful or offensive contact to any person, whether direct or indirect, and regardless of intent.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT OF DEFINITIONS - INSURED CONTRACT
(Limited Form)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The definition of "insured contract" in the **Definitions** section is **replaced** by the following:

"Insured contract" means any written:

- a. Contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "property damage" to premises while rented or loaned to you, or temporarily occupied by you with permission of the owner, is not an "insured contract";
- b. Sidetrack agreement;
- c. Easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. Elevator maintenance agreement; or
- f. Part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or those acting on your behalf. However, such part of a contract or agreement shall only be considered an "insured contract" to the extent your assumption of the tort liability is permitted by law. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An "insured contract" does not include that part of any contract or agreement:

- a. That indemnifies any person or organization for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- b. That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (1) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs, drawings, or specifications; or
 - (2) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- c. Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **b.(1)** or **b.(2)** above and supervisory, inspection, architectural or engineering activities; or
- d. That indemnifies any person or organization for "bodily injury" or "property damage" arising from the ownership, maintenance, or use of any aircraft.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - PUNITIVE OR EXEMPLARY DAMAGES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following exclusion is **added** to **2. Exclusions** of **Section I**:

This insurance does not apply to punitive or exemplary damages, including but not limited to those damages that may be imposed to punish a wrongdoer or to deter others from engaging in a similar behavior.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TOTAL EXCLUSION – POLLUTION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Exclusion f. Pollution of 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

This insurance does not apply to:

f. Pollution

- (1) "Bodily injury" or "property damage" which would not have occurred in whole or in part but for the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, escape, or presence of "pollutants" at any time.
- (2) Any loss, cost or expense arising out of any:
 - (a) 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, "pollutants"; or
 - (b) Claim or "suit" by or on behalf of any authority, governmental or otherwise, for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants"; or
 - (c) Requirements by Environmental Protection Agency (EPA) 40 CFR Parts 280 and 281 for underground storage tanks, Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or any similar State or Federal environmental act(s).

We will have no duty to investigate, defend or indemnify any insured in any action or proceeding alleging damages arising out of any of the above.

B. The definition of "Pollutants" in the Definitions section is replaced by the following:

"Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – TOXIC METALS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is **added** to **2. Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability, Coverage B – Personal And Advertising Injury** and **Coverage C – Medical Payments**:

This insurance does not apply to:

1. "Bodily injury", "property damage", "personal and advertising injury" or medical payments arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of "toxic metals" in any form.
2. Any loss, cost, or expense arising out of any:
 - a. Request, demand, order, or requirement by or on behalf of any authority, governmental or otherwise, that any insured or others abate, test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of any "toxic metals"; or
 - b. Claim or "suit" by or on behalf of any authority, governmental or otherwise, for damages because of abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of any "toxic metals"; or
 - c. Requirements by Environmental Protection Agency (EPA) 40 CFR Parts 280 and 281 for underground storage tanks, Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or any similar State or Federal environmental act(s).

We will have no duty to investigate, defend or indemnify any insured in any action or proceeding alleging damages arising out of direct or indirect contact with, any exposure to, or the ingestion, inhalation, or absorption of any "toxic metals" in any form.

- B. For the purpose of this endorsement, the following definitions are **added** to the **Definitions** section:
1. "Toxic metals" are individual metals and metal compounds that negatively affect people's health. "Toxic metals" include, but are not limited to, arsenic, beryllium, "heavy metals", or hexavalent chromium.
 2. "Heavy metals" are a group of elements between copper and bismuth on the periodic table of the elements having specific gravities greater than 4.0. "Heavy metals" include, but are not limited to, cadmium, cobalt, copper, lead, manganese, mercury, molybdenum, strontium, vanadium, or zinc.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - MICROORGANISMS, BIOLOGICAL ORGANISMS,
BIOAEROSOLS OR ORGANIC CONTAMINANTS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusions are **added** to **2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Coverage B - Personal And Advertising Injury Liability and Coverage C - Medical Payments:**

This insurance does not apply to:

1. "Bodily injury", "property damage", "personal and advertising injury", or medical payments arising out of, related to, caused by or in any way connected with the exposure to, presence of, formation of, existence of or actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of any microorganisms, biological organisms, bioaerosols or organic contaminants including, but not limited to, mold, mildew, fungus, spores, yeast or other toxins, mycotoxins, allergens, infectious agents, wet or dry rot or rust, or any materials containing them at any time, regardless of the cause of growth, proliferation or secretion.
2. Any loss, cost or expense arising out of any:
 - a. Request, demand, order, or requirement by or on behalf of any authority, governmental or otherwise, that any insured or others abate, test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, remediate or dispose of, or in any way respond to, or assess the effects of microorganisms, biological organisms, bioaerosols or organic contaminants including, but not limited to, mold, mildew, fungus, spores, yeast, or other toxins, mycotoxins, allergens, infectious agents, wet or dry rot or rust, or any materials containing them at any time, regardless of the cause of growth, proliferation or secretion; or
 - b. Claim or "suit" by or on behalf of any authority, governmental or otherwise, for damages because of abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of microorganisms, biological organisms, bioaerosols or organic contaminants including, but not limited to, mold, mildew, fungus, spores, yeast, or other toxins, mycotoxins, allergens, infectious agents, wet or dry rot or rust, or any materials containing them at any time, regardless of the cause of growth, proliferation or secretion.

We shall have no duty to investigate, defend, or indemnify any insured in any action or proceeding alleging damages arising out of direct or indirect contact with, any exposure to, or the ingestion, inhalation or absorption of any microorganisms, biological organisms, bioaerosols, or organic contaminants including, but not limited to, mold, mildew, fungus, spores, yeast or other toxins, mycotoxins, allergens, infectious agents, wet or dry rot or rust, or any materials containing them at any time, regardless of the cause of growth, proliferation or secretion.

This exclusion does not apply to any fungi, bacteria, microorganisms or biological organisms that are, are on, or are contained in, a good or product intended for bodily consumption.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - EVENTS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A.** The following exclusion is **added** to **2. Exclusions** of **Section I - Coverage A - Bodily Injury And Property Damage Liability, Coverage B - Personal And Advertising Injury Liability** and **Coverage C - Medical Payments**:

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or medical payments arising out of any "event" managed, operated or sponsored by the insured.

- B.** The following definitions are **added** to the **Definitions** section:

1. "Event" means any activity of an athletic or sports, or entertainment nature of "limited duration" that you manage, operate, or sponsor including, but not limited to, a carnival, circus, concert, contest, demonstration, exhibition, fair, game, match, parade, race, ride, rodeo, show, stunting activity, theatrical performance, or tour.
2. "Limited duration" means a time period that can be established by a beginning and ending date.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – ANIMALS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is **added** to Paragraph 2. **Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability, Coverage B – Personal And Advertising Injury Liability, and Coverage C – Medical Payments:**

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or medical payments arising out of:

1. The ownership, maintenance, presence, supervision, training, use, or possession of any animals including, but not limited to, mammals, reptiles, insects, birds, or fish, on an insured's premises or in any insured's operations; or
2. Failure to suppress or prevent such injury or damage by anyone; or
3. Failure to render or secure medical treatment or care following any such injury or damage.

This exclusion applies even if the claims against the insured allege negligence or other wrongdoing in the possession of an animal or negligent employment, supervision, hiring, training, or monitoring of others.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – UNMANNED AIRCRAFT, OTHER THAN UNMANNED AIRCRAFT, AUTO OR WATERCRAFT (Limited)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Exclusion **g. Aircraft, Auto Or Watercraft** under Paragraph 2. **Exclusions** of Section I - Coverage A - **Bodily Injury and Property Damage Liability** is **replaced** by the following:

2. Exclusions

This insurance does not apply to:

g. Aircraft, Auto Or Watercraft

(1) Unmanned Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This Paragraph **g.(1)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

(2) Aircraft (Other Than Unmanned Aircraft), Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft:

- (a)** Owned or operated by or rented or loaned to any insured; or
- (b)** Owned or operated by or rented or loaned to any person employed, contracted or sub-contracted by you, or by others on your behalf.

Use includes operation and "loading or unloading".

This Paragraph **g.(2)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is:

- (a)** Owned or operated by or rented or loaned to any insured; or
- (b)** Owned or operated by or rented or loaned to any person employed, contracted or sub-contracted by you, or by others on your behalf.

This Paragraph **g.(2)** does not apply to:

- (a)** A watercraft while ashore on premises you own or rent; or
- (b)** "Bodily injury" or "property damage" arising out of:

- (i) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (ii) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment" as follows:
 - (aa) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (bb) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

B. The following exclusion is added to Paragraph 2. Exclusions of Coverage B – Personal And Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

Unmanned Aircraft

"Personal and advertising injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This exclusion does not apply to:

- a. The use of another's advertising idea in your "advertisement"; or
- b. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

C. The following definition is added to the Definitions section:

"Unmanned aircraft" means an aircraft that is not:

- 1. Designed;
- 2. Manufactured; or
- 3. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CYBER INCIDENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following **replaces** Exclusion 2.p. of **Section I – Coverage A – Bodily Injury And Property Damage Liability** and is **added** to Paragraph 2. **Exclusions** of **Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to:

Cyber Incident

Damages, costs or expenses, either directly or indirectly because of, caused by or arising out of:

1. Any:
 - a. Access to, acquisition, use, collection, copying, processing, storage, dissemination, publication or disclosure of;
 - b. Theft, alteration, misuse, loss, misappropriation, disruption of, or damage to; or
 - c. Failure to provide access to, remove, rectify, destroy, protect or secure, including, but not limited to, failure to encrypt;any person's or organization's "confidential information", whether it is "electronic data" or in any other form or media.
2. The loss of, loss of use of, corruption or impairment of, damage to, disruption or destruction of, or inability to access, alter or manipulate "electronic data".
3. Any of the following:
 - a. Denial of service attack on;
 - b. Misappropriation, diversion, loss or misuse of; or
 - c. Denial of access to or service of, interruption of service, degradation, loss of use, alteration, failure, destruction, corruption, or impairment of;any "computer system", including any insured's or other person's or organization's "computer system".
4. Malicious code, virus or any other harmful code that:
 - a. Is directed at, enacted upon or introduced into "electronic data" or any "computer system"; or
 - b. Is designed to access, alter, corrupt, damage, delete, destroy, disrupt, encrypt, exploit, use, prevent or restrict access to, or otherwise disrupt the normal functioning or operation of "electronic data" or any "computer system".
5. Transfer, payment or delivery of money or any form of currency, including virtual currency, in response to a fraudulent instruction or demand.
6. Demand for a ransom payment (in money, or any form of currency, including virtual currency, or property or services), made in connection with the actual or threatened perpetuation of that which is described in paragraphs 1. through 5. above.

Such damages, costs or expenses are excluded regardless of any other cause or event that contributes concurrently or in any sequence to the damages, costs or expenses.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, payment card replacement costs, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in paragraphs 1. through 6. above.

This exclusion applies to any liability, damages, costs or expenses either directly or indirectly because of, caused by, or arising out of any failure (including, but not limited to, failure to timely or properly act) to notify of, disclose, prepare for, respond to, protect against, remediate, mitigate or comply with any statutory, regulatory, contractual, common law or other legal obligation relating to that described in paragraphs 1. through 6. above.

This exclusion applies regardless of culpability or intent, or whether the claim alleges negligence or other wrongdoing, in whole or in part, arising out of hiring, placing, managing, supervising, employing, training or monitoring of others, or the maintenance or security of any premises.

If there is any duty or obligation to defend or pay for a defense in the policy to which this endorsement is attached, the duty or obligation will not apply to any claim, "suit" or proceeding that alleges or is, directly or indirectly, in whole or in part, caused by, resulting from or relating to any of the above.

This exclusion does not apply to any coverage provided under endorsement **L411 – Privacy Breach Coverage**, if this is part of the policy.

- B.** With respect to **Section I – Coverage B – Personal And Advertising Injury Liability**, paragraph 14.e. of the **Definitions** section does not apply.
- C.** With respect to this endorsement, the following definitions are **added** under **Section V – Definitions**:
1. "Computer system" means:
 - a. Any computer hardware, including but not limited to:
 - (1) Computers;
 - (2) Transportable, mobile or handheld devices;
 - (3) Data storage and data processing devices;
 - (4) Networking equipment and backup facilities, including cloud computing devices and facilities;
 - (5) Associated input and output devices (including, but not limited to, wireless and mobile devices);
 - (6) Any related peripheral components; or
 - (7) Communication networks, connected to or used in connection with such computers, equipment, facilities or devices.
 - b. Firmware and electronic instructions that direct the operation and function of a computer or devices connected to it, which enables the computer or devices to receive, process, store or send "electronic data".
 2. "Confidential information" means nonpublic information, confidential information, personal information or personal data, including, but not limited to:
 - a. Non-public information about a person that allows such person to be uniquely and reliably identified or allows access to the person's financial account or medical records information;
 - b. Patents, trade secrets, processing methods, customer or customer-related information (including, but not limited to, customer lists); or
 - c. Business plans or records, financial information, personally identifiable information, credit or payment card information (including, but not limited to, credit, debit or stored value cards), medical or health information or any type or combination of types of the foregoing.
 3. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - SWIMMING POOLS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A.** The following exclusion is **added** to Paragraph **2. Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability, Coverage B – Personal And Advertising Injury Liability** and **Coverage C – Medical Payments**:

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury", or medical payments arising out of, or in any way related to, the ownership, maintenance, operation, supervision, or use of a "swimming pool" by any person.

- B.** The following definition is **added** to **Section V – Definitions**:

"Swimming pool" means any artificial basin, chamber, tank, or similar structure modified, improved, constructed, or installed and used for swimming, wading, diving, exercise, recreation, or instruction. "Swimming pool" includes, but is not limited to, an above-ground pool, in-ground pool, wading pool, or inflatable pool. "Swimming pool" also includes, but is not limited to a spa, hot tub, Jacuzzi, public bath, sauna, whirlpool, or similar device which is designed for recreational use and may consist of elements including, but not limited to, hydro-jet circulation, hot water, cold water, mineral baths, air induction systems, or any combination thereof. "Swimming pool" does not include artificial lakes or ponds.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – COMMUNICABLE OR INFECTIOUS DISEASE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability, Coverage B – Personal And Advertising Injury Liability, and Coverage C – Medical Payments:

1. This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or medical payments arising out of any actual or alleged transmission of or exposure to a "communicable or infectious disease".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the:

- a. Supervising, hiring, employing, training or monitoring of others that may be infected with and spread a "communicable or infectious disease";
 - b. Testing for a "communicable or infectious disease";
 - c. Failure to suppress or prevent the spread of the "communicable or infectious disease"; or
 - d. Failure to report the "communicable or infectious disease" to authorities.
2. This exclusion also applies to any loss, cost or expense arising out of any:
 - a. 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 "communicable or infectious disease"; or
 - b. Claim or "suit" by or on behalf of any authority, governmental or otherwise, for damages 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 "communicable or infectious disease".
 3. This exclusion does not apply to any claim of "bodily injury", "property damage" or medical payments arising out of the actual or alleged consumption of food that is sold for human consumption and that contains:
 - a. Campylobacter, Clostridium perfringens, E. coli, Listeria monocytogenes, Salmonella, Staphylococcus aureus, Vibrio alginolyticus, Vibrio parahaemolyticus, or Vibrio vulnificus;
 - b. Cryptosporidium parvum, Giardia duodenalis, Taenia saginata, Taenia solium, Toxoplasma gondii, or Trichinella spiralis;
 - c. Hepatitis A; or
 - d. Norovirus, Astrovirus, Sapovirus, Rotavirus or variants or mutations thereof which were known, identified and generally accepted by the United States Centers for Disease Control and Prevention as of the effective date of this policy.

4. Except with respect to Paragraph 3. above, we will have no duty to defend or indemnify any insured in any action or proceeding alleging damages arising out of any "communicable or infectious disease".

B. For the purposes of this endorsement the following definition is added to the Definitions section:

"Communicable or infectious disease" means any disease, illness or condition contracted through direct or indirect contact with or exposure to any form of pathogens such as, but not limited to, bacterium, fungus, marker, microbial agent, microorganism, organism, protozoa, virus or any other source that induces or is capable of inducing the disease, illness or condition.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CHANGES - CIVIL UNION OR DOMESTIC PARTNERSHIP

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

All references to spouse shall include an individual who is a party to a civil union or is in a domestic partnership recognized under state law, where applicable.

All other terms and conditions remain unchanged.

PRIVACY BREACH COVERAGE

THE ENDORSEMENT’S AGGREGATE LIMIT OF INSURANCE WILL BE REDUCED AND MAY BE EXHAUSTED BY PAYMENT OF THE COVERAGE PROVIDED BY THIS ENDORSEMENT, INCLUDING WITHOUT LIMITATION, PAYMENTS FOR DAMAGES, CLAIMS, CLAIM EXPENSES, LOSSES, PRIVACY BREACH EXPENSES, DATA REPLACEMENT EXPENSES, COMPUTER SYSTEM RESTORATION EXPENSES, EXTORTION THREAT LOSSES, FUNDS TRANSFER FRAUD, PCI FINES, AND REGULATORY FINES.

FOR THE AVOIDANCE OF DOUBT, CLAIM EXPENSES ARE INCLUDED WITHIN, REDUCE, AND MAY EXHAUST THE APPLICABLE LIMITS OF LIABILITY.

THIS ENDORSEMENT PROVIDES INDEPENDENT COVERAGES, TERMS, AND DEFINITIONS.

PLEASE READ THE ENTIRE ENDORSEMENT CAREFULLY.

Various provisions in this **Endorsement** restrict coverage. Read the entire **Endorsement** carefully to determine what is and what is not covered, in addition to rights and duties of the **Named Insured** and **Company**. Throughout this endorsement the words in **bold** are defined terms within Section VIII., the Definitions section of this endorsement.

Schedule of Insurance

Coverage	Limits of Insurance / Sublimits of Insurance
ENDORSEMENT AGGREGATE COVERAGE LIMIT	\$ 25,000
A. REGULATORY PROCEEDING COVERAGE LIMIT (Inclusive of the following Insuring Agreements):	\$ 25,000
Regulatory Coverage	\$ 25,000
Regulatory Fines (Sublimit)	\$ 5,000
B. FIRST PARTY COVERAGE LIMIT (Inclusive of the following Insuring Agreements):	\$ 25,000
1. Privacy Breach	\$ 25,000
2. System Compromise	\$ 25,000
3. Extortion Threat (Sublimit)	\$10,000 each Extortion Threat Event
4. Funds Transfer Fraud (Sublimit)	\$10,000 each Funds Transfer Fraud Event
5. Payment Card Industry (Sublimit)	\$10,000 each PCI Security Violation Event
C. PER EVENT DEDUCTIBLE	\$ 1,000
D. ENDORSEMENT PREMIUM	\$ 130

In consideration of the payment of the premium, in reliance on all information provided to the **Company**, and subject to all provisions of this **Endorsement**, the **Named Insured** and **Company** agree as follows:

SECTION I: INSURING AGREEMENTS

This Section lists the coverages that apply if indicated in the Schedule of Insurance and have a Limit of Insurance on the Schedule. If no Limit of Insurance is set forth for an Insuring Agreement in the Schedule, coverage has not been purchased for such Insuring Agreement. For coverage under this **Endorsement**, the applicable **Event** must be first **Discovered** during the **Endorsement Period** and reported to the **Company** in accordance with Section IV.A.

A. REGULATORY PROCEEDING COVERAGE

The **Company** will pay on the **Insured’s** behalf the **Regulatory Fines** and **Claim Expenses** resulting from a **Regulatory Proceeding Claim** directly arising from a **Privacy Breach Event**, provided the **Privacy Breach Event** is first **Discovered** during the **Endorsement Period**.

B. FIRST PARTY COVERAGE

1. PRIVACY BREACH

The **Company** will pay the **Named Insured** for **Privacy Breach Expenses** directly arising from a **Privacy Breach Event**, provided the **Privacy Breach Event** is first **Discovered** during the **Endorsement Period**.

2. SYSTEM COMPROMISE

The **Company** will pay the **Named Insured** for **Data Replacement Expenses** and **Computer System Restoration Expenses** directly arising from a **System Compromise Event**, provided the **System Compromise Event** is first **Discovered** during the **Endorsement Period**.

3. EXTORTION THREAT

The **Company** will pay the **Named Insured** for **Extortion Threat Losses** directly arising from an **Extortion Threat Event**, provided the **Extortion Threat Event** is first **Discovered** during the **Endorsement Period**.

4. FUNDS TRANSFER FRAUD

The **Company** will pay the **Named Insured** for **Defrauded Funds** first transferred during the **Endorsement Period** and directly arising from a **Funds Transfer Fraud Event**, provided the **Funds Transfer Fraud Event** is first **Discovered** during the **Endorsement Period**.

5. PAYMENT CARD INDUSTRY

The **Company** will pay the **Named Insured** for **PCI Fines** resulting from a **PCI Claim** directly arising from a **PCI Security Violation Event**, provided the **PCI Security Violation Event** is first **Discovered** during the **Endorsement Period**.

SECTION II: LIMITS OF INSURANCE AND DEDUCTIBLE

A. LIMITS OF INSURANCE

1. ENDORSEMENT AGGREGATE COVERAGE LIMIT OF INSURANCE

The Endorsement Aggregate Coverage Limit of Insurance for the **Endorsement Period** is the maximum aggregate limit of the **Company's** liability under all Insuring Agreements in this **Endorsement** combined, regardless of the number of **Claims**, the number of **Losses**, the number of claimants, and the number of Insuring Agreements triggered.

The Regulatory Proceeding Coverage Limit, including sublimits, and the First Party Coverage Limits, including sublimits, listed in the Schedule are all part of, and not in addition to, the Endorsement Aggregate Coverage Limit of Insurance set forth in the Schedule.

2. REGULATORY PROCEEDING COVERAGE LIMIT OF INSURANCE

If a Limit of Insurance is set forth in the Schedule under the heading "Regulatory Proceeding Coverage Limit" for an Insuring Agreement in Section I.A. of this **Endorsement**, then such Limit of Insurance is the maximum limit of the **Company's** liability for all **Damages** from all **Claims** and **Related Claims** in the aggregate under that Insuring Agreement, which amount is part of, and not in addition to, the Regulatory Proceeding Coverage Limit and the Endorsement Aggregate Coverage Limit of Insurance for the **Endorsement Period**.

3. FIRST PARTY COVERAGE LIMIT OF INSURANCE

If a Limit of Insurance is set forth in the Schedule under the heading "First Party Coverage Limit" for an Insuring Agreement in Section I.B. of this **Endorsement**, then such Limit of Insurance is the maximum limit of the **Company's** liability for all **Loss** and **Related Losses** in the aggregate under that Insuring Agreement, which amount is part of, and not in addition to, the First Party Coverage Limit and the Endorsement Aggregate Coverage Limit of Insurance for the **Endorsement Period**.

B. DEDUCTIBLE

1. The **Company** shall only be liable for the amount of **Damages** or **Loss** which is in excess of the applicable Deductible set forth in the Schedule. Such Deductible shall solely be the obligation of the **Named Insured**. The **Company** has no obligation to the **Named Insured** or to any other person or entity to pay all or any portion of any Deductible amount for or on behalf of the **Named Insured**.

2. For the purpose of applying the Deductible, the **Named Insured** shall pay one single Deductible amount for **Damages** and **Loss** arising from the same **Event** or **Related Events**, regardless of whether there is more than one **Claim** or **Loss** arising from the same **Event** or **Related Events**.

C. RELATED EVENTS, RELATED CLAIMS, RELATED LOSS

1. Each **Event** and all its **Related Events** shall be treated as a single **Event**.
2. Each **Claim** and all its **Related Claims** shall be treated as a single **Claim**.
3. Each **Loss** and all its **Related Losses** shall be treated as a single **Loss**.

D. ENDORSEMENT PERIODS

In no event will any **Event** or **Related Event**, **Claim** or **Related Claim**, or **Loss** or **Related Loss** constitute an **Event**, **Claim**, or **Loss** (as applicable) in more than one **Endorsement Period**.

SECTION III: DEFENSE AND SETTLEMENT

A. DEFENSE

1. Provision of Defense

The **Company** has the right to defend any **Claim** against the **Insured** seeking **Damages** under this **Endorsement**, even if any of the allegations are groundless, false, or fraudulent. The **Company** will not defend or pay **Claim Expenses** for any **Claim** or pay any **Damages** for a **Claim**:

- a. Arising from an **Event** not first **Discovered** during the **Endorsement Period**;
- b. Which is not covered by this **Endorsement**; or
- c. Seeking relief not covered by this **Endorsement**.

2. Termination of Defense

- a. The **Company** has the right to terminate its defense, and its obligation to pay **Claim Expense** ends, when the Endorsement Aggregate Coverage Limit of Insurance or applicable Limit of Insurance is exhausted by the **Company's** payments or the **Company** deposits the remaining portion of the Endorsement Aggregate Coverage Limit of Insurance or applicable Limit of Insurance with a court of competent jurisdiction.
- b. The **Company's** right to defend, and its obligation to pay **Claim Expenses** ends, when the **Company** makes any of the following determinations: (i) the **Claim** arises from an **Event** not first **Discovered** during the **Endorsement Period**, (ii) the **Claim** is not covered by this **Endorsement**, or (iii) the **Claim** seeks relief that is not covered by this **Endorsement**.

3. Selection of Counsel

The **Company** shall have the right to select and appoint counsel to defend any **Claim**. The **Insured** shall not appoint counsel to defend any **Claim** without **Approval** in advance. Any costs incurred by an **Insured** for work performed by counsel, when that counsel was not **Approved**, shall be borne by the **Insured** and shall not erode the applicable **Deductible** set forth in the Schedule or be recoverable under this **Endorsement**. The **Company** shall have the right to substitute its chosen counsel for any counsel previously selected by the **Insured** without **Approval** unless otherwise prohibited by applicable law.

B. SETTLEMENT

The **Company** has the right to investigate, direct the defense of, and/or settle any **Claim** as the **Company** deems expedient.

C. COMPANY'S APPROVAL REQUIRED

It is a condition precedent for coverage under this **Endorsement** that the **Insured** shall not admit any liability, make any payment, assume any obligation, incur any expense, enter into or negotiate any settlement, stipulate to any judgment or award, or dispose of any **Claim** without **Approval**.

SECTION IV: REPORTING REQUIREMENTS

A. INSURED'S DUTY TO REPORT

1. NOTICE IS A CONDITION PRECEDENT TO COVERAGE

It is a condition precedent to coverage under this **Endorsement** that if a **Knowledge Group Member** first **Discovers** during the **Endorsement Period** any **Event** (including each **Related Event**, if any), **Claim** (including each **Related Claim**, if any), **Loss** (including each **Related Loss**, if any), or **Circumstances**, an **Insured** must provide written notice to the **Company** of such **Event, Claim, Loss** or **Circumstances**, such notice to include the information set forth in Section IV. A. 2 below, and to be provided as soon as practicable, but in all cases no later than thirty (30) days after first **Discovered**.

It is a condition precedent to coverage under this **Endorsement** that, if the **Company** sends written notice to the **Named Insured** that this **Endorsement** is being cancelled for non-payment of premium, the **Named Insured** must provide written notice to the **Company** of any **Event, Claim, Loss** or **Circumstances** in accordance with the prior paragraph, but in any event no later than the earlier of: (i) thirty (30) days after such **Event, Claim, Loss** or **Circumstances** is first **Discovered**, and (ii) prior to the effective date of the cancellation.

Such notices must be sent to the **Company**. Notice to any **Vendor** (including lawyers, experts, and litigation support staff) does not constitute notice to the **Company** of an **Event, Claim, Loss** or **Circumstances** under this **Endorsement**.

2. INFORMATION TO BE INCLUDED IN NOTICES

In providing the notice under A.1., of this Section IV, each notice must include a written report with the following information:

- a. If notice is of an **Event**, then a description of the **Event**, when and how the **Knowledge Group Member** first **Discovered** the **Event**, the **Circumstances** giving rise to the **Event**, and any **Claim** or **Loss** reasonably expected to arise from that **Event**.
- b. If notice is of a **Claim**, or of an **Event** or **Circumstances** reasonably likely to give rise to a **Claim**, then a description of the **Claim**; when and how the **Knowledge Group Member** first **Discovered** the **Claim**; the names of the claimant or potential claimant, the **Impacted Individuals**, the **Impacted Entities**, and any other persons or entities involved; the specific **Regulatory Proceeding** which may form the basis of the **Claim**; all pleadings and other documents setting forth the **Claim** or notifying an **Insured** of the **Claim**; the **Circumstances** giving rise to the **Claim**; and the nature and extent of any potential **Damages**.
- c. If notice is of a **Loss**, or of an **Event** or **Circumstances** reasonably likely to give rise to a **Loss**, then a description of the **Loss**, when and how the **Knowledge Group Member** first **Discovered** the **Loss**, the **Circumstances** giving rise to the **Loss**, and the nature and extent of any potential **Loss**.
- d. If the notice is of **Circumstances**, then, in addition to the information in A.2.a., b., and c. above, a description of the **Circumstances**, when and how the **Knowledge Group Member** first **Discovered** the **Circumstances**, the reason the **Knowledge Group Member** believes such **Circumstances** are reasonably likely to result in an **Event, Claim** or **Loss**, and the nature and extent of any potential **Damages** or **Loss**.

3. REPORTS OF MALICIOUS CODES AND EXPLOITS

For **System Compromise Events** and **Extortion Threat Events** based upon, arising out of, attributable to, caused by or resulting from **Malicious Code** or **Exploit**, the **Named Insured** must provide the **Company** as soon as possible with (a) any identifying characteristics, markers, or other information which may identify the **Malicious Code** or **Exploit** involved in the **Event**, and (b) a written report by a forensic **Vendor** which identifies the **Malicious Code** or **Exploit** involved in the **Event**, such report be provided to the **Company** no later than thirty (30) days after the first **Discovery** of such **Event**.

For all other **Events**, such a report must be provided at the **Company's** request.

4. All notices shall be sent to: Nautilus Insurance Group, 7233 E. Butherus Drive, Scottsdale, AZ 85260, Attn: Claims Department, Claims Customer Service Hotline (800) 358-5178, FAX (480) 281-0794, E-Mail: niclaims@nautilus-ins.com.

B. NO COVERAGE

1. No coverage under this **Endorsement** will be provided for:
 - a. Any **Damages** incurred or paid prior to the time the **Company** is notified of the **Claim** or any **Related Claim** pursuant to Section IV.A.; or
 - b. Any **Loss** incurred or paid prior to the time the **Company** is notified of a **Loss** or any **Related Loss** pursuant to Section IV.A. However, this prior notice requirement does not apply to (i) **Defrauded Funds** if notice of the **Funds Transfer Fraud Event** is provided in compliance with Section IV.A.
2. No coverage under this **Endorsement** will be provided if any **Insured** reports any matter knowing or having reason to know it to be false or fraudulent.

C. DETERMINATION OF FIRST DISCOVERY

1. Each **Claim** and all its **Related Claims**, whenever made, will be deemed a single **Claim** first **Discovered** on the earlier of the following:
 - a. When the **Event** giving rise to the **Claim** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence; and
 - b. When the earliest of the **Related Claims** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence.

This Section IV.C.1. applies regardless of the following:

- a. The number of **Related Claims**;
 - b. The number or identity of **Impacted Individuals, Impacted Entities**, or any other persons, entities, or claimants involved; or
 - c. The timing of the **Related Claims**, even if the **Related Claims** were received or **Discovered** in more than one **Endorsement Period**.
2. **Loss** and all its **Related Losses**, whenever occurring, will be deemed a single **Loss** first **Discovered** on the earlier of the following:
 - a. When the **Event** giving rise to the **Loss** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence; and
 - b. When the earliest of the **Related Losses** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence.

This Section IV.C.2. applies regardless of the following:

- a. The number of **Related Losses**;
 - b. The number or identity of **Impacted Individuals, Impacted Entities**, or any other persons or entities involved; or
 - c. The timing of the **Related Losses**, even if the **Related Losses** occurred or were **Discovered** in more than one **Endorsement Period**.
3. Each **Event** and all its **Related Events**, whenever occurring, will be deemed a single **Event** first **Discovered** on the earliest of the following:
 - a. When the **Event** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence;
 - b. When the earliest of the **Related Events** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence; and
 - c. When the earliest **Circumstances** were first **Discovered**, or could have been **Discovered** through the exercise of due diligence.

This Section IV.C.3. applies regardless of the following:

- a. The number of **Related Events** or **Circumstances**;

- b. The number or identity of **Impacted Individuals**, **Impacted Entities**, or any other persons, entities, or claimants involved; or
- c. The timing of the **Related Events** or **Circumstances**, even if the **Related Events** or **Circumstances** occurred or were **Discovered** in more than one **Endorsement Period**.

For purposes of this Section IV.C., due diligence includes but is not limited to compliance with Section V.

SECTION V: DUE DILIGENCE AND COOPERATION

A. DUE DILIGENCE REQUIREMENTS

1. It is a condition precedent to coverage under this **Endorsement** that the **Named Insured** must, at its sole cost and expense, use due diligence to prevent and mitigate against any **Damages** or **Loss**, and to protect and monitor the security of **Protected Information** and its **Computer System**. This includes, but is not limited to:
 - a. Providing and maintaining appropriate physical security for the **Named Insured's** premises and the **Computer System**;
 - b. Performing and installing all available software updates and patches as soon as practicable but in no event later than thirty (30) days from the time the update or patch becomes available;
 - c. Installing, maintaining, monitoring, and updating firewalls, virus scans and anti-virus software, and ensuring that the foregoing are active and in use for the **Computer System**;
 - d. Providing and running a data backup system at appropriate intervals, including without limitation performing a full backup of the **Computer System** at least once every thirty (30) days;
 - e. Providing and maintaining password protection and encryption for all **IOT Devices**, **Portable Devices** and **Peripheral Hardwired Devices**;
 - f. Providing and maintaining encryption for **Protected Information** and financial transactions such as credit card, debit card, and check processing; and
 - g. Providing and maintaining secure disposal procedures for files containing **Protected Information** no longer needed for use.
2. It is a condition precedent to coverage under this **Endorsement** for any **Funds Transfer Fraud Event** that the **Named Insured** must have a written policy in place which requires a **Knowledge Group Member** to contact the party identified as requesting the funds transfer to confirm the requested amount and the payment instructions (payee name, address and account number, and routing number, if applicable) either in person or by phone, using a phone number obtained from a source other than the funds transfer request communication, when the funds transfer request is for a new payee or when the request includes or has been recently preceded by any change in payment instructions from previous requests.

B. COOPERATION

The **Insured** agrees not to take any action or fail to take any requested action, that prejudices the **Insured's** rights or the **Company's** rights with respect to a **Claim** or **Loss**. In the event of a **Claim** or a **Loss**, the **Insured** must do the following upon the **Company's** request:

1. Fully assist and cooperate with the **Company** in the conduct, defense, investigation, negotiation, and settlement of a **Loss** or **Claim** or investigation of coverage of a **Loss** or **Claim**;
2. Submit to an examination under oath; provide the **Company** with written statements; attend meetings and negotiations; produce and make available all information, books, records, documents, and other materials which the **Company** deems relevant; and authorize the **Company** to obtain records and other information;
3. Take additional steps to protect the **Computer System** and **Protected Information** from further loss or damage and keep a record of the expenses necessary to do so;
4. Attend hearings, depositions, proceedings, trials, and appeals;
5. Assist the **Company** in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses, and pursuing or enforcing any right of contribution or indemnity against a person or entity who may be liable to the **Insured**;

6. Accept the **Company's** assignment of counsel unless otherwise prohibited by applicable law; and
7. Provide reports of forensic **Vendors** that identify the **Malicious Code** or **Exploit** involved in the **Event** as soon as possible; provided that this provision supplements, and does not replace, the reporting requirements set forth in Section IV.A.

SECTION VI: EXCLUSIONS

A. The **Company** shall not be liable to pay, indemnify or reimburse for any **Claims, Damages** or **Losses** based upon, arising out of, attributable to, caused by or resulting from, whether actual or alleged:

1. Any of the following:
 - a. Intentional creation or distribution of **Malicious Code** or **Exploit** by any **Insured**;
 - b. Unauthorized tampering with any **Computer System** by any **Insured**; or
 - c. Any dishonest, fraudulent, criminal, malicious, or willful act, error, or omission by any **Insured**.
2. Any **Mass Event**.
3. Any of the following:
 - a. Failure, interruption of service, or defect by third parties;
 - b. Misconfiguration of information technology systems, including but not limited to domain name system configuration changes and domain name hijacking, by third parties;
 - c. Unauthorized access or unauthorized use of a third party's computer system;
 - d. Malicious insider activity of or by third parties; or
 - e. Distribution of **Malicious Code** or **Exploit** by third parties,in each case that impact the **Computer System** and cause **Claims, Losses** or **Damages**. For the purposes of this exclusion third parties shall refer to (i) any cloud service provider; (ii) any other entity providing to an **Insured**, or servicing for an **Insured**, any hardware or software over the internet; or (iii) any other entity providing software as a service, infrastructure as a service, managed security as a service, platform as a service, or any form of cloud data storage as a service to an **Insured**.
4. Any mechanical or service failure, interruption of service, or defect of:
 - a. Telephone, communications or data transmission lines, equipment or infrastructure;
 - b. Internet system, internet service provider or cloud service provider, device or computer system (other than a **Computer System**, or an internet system owned or leased by and operated under the control of the **Named Insured**); or
 - c. Electricity (including but not limited to power interruption, surge, brownout or blackout), gas, water or other utilities or their equipment or infrastructure (including, but not limited to power lines).
5. Shortcomings, errors or mistakes in any set of instructions (oral, written or electronic), scripts, program, code or software that is executed, run or installed on the **Computer System** either (a) during the course of a legitimate and authorized upgrade, update or maintenance process of any software, firmware or hardware on or part of a **Computer System**, or (b) that are present within the firmware or hardware of a **Computer System** as a result of the manufacturing process, in each case for (a) and (b), for the purposes of this exclusion, that directly causes **Claims, Losses** or **Damages**.
6. Any of the following:
 - a. Bodily injury, sickness, or disease sustained by a person, including death resulting from any of these at any time;
 - b. Physical injury to tangible property, including all resulting loss of use of that property; or
 - c. Loss of use of tangible property that is not physically injured.

This exclusion shall not apply to a **Claim** for mental injury, mental anguish, or emotional distress directly resulting from a **Privacy Breach Event**. For purposes of this exclusion, electronic data is not considered tangible property.

7. Any of the following:
 - a. Nuclear reaction, nuclear radiation, radioactive contamination, radioactive substance, electromagnetic field, electromagnetic radiation, or electromagnetism;
 - b. Pathogenic or poisonous biological or chemical materials, whether or not man-made, including communicable disease events;
 - c. War, invasion, acts of foreign enemies, hostilities (whether war is declared or not), riot, civil unrest, rebellion, revolution, insurrection, war-like action, coup, usurped powers or military power, including but not limited to those by state-sponsored actors, and action taken by government authority in hindering or defending against any of these; or
 - d. Fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical event.
8. Any unlawful or unauthorized obtaining, gathering, collecting, acquiring, sharing, using, distribution or sale by an **Insured** of any **Protected Information**. Provided, however, this exclusion shall not apply to **Privacy Breach Expenses, Regulatory Proceedings Claims, or PCI Claims**, in each case directly arising from a **Privacy Breach Event**, and which are otherwise covered under this **Endorsement**.
9. The unsolicited dissemination of any communication to actual or prospective customers of the **Named Insured** or to any other third party.
10. Any violation of the Telecommunications Act, the CAN-SPAM Act, or any other federal, state or local legislation, regulation or law or common law, either: (a) protecting a person's or entity's right of seclusion or privacy (other than a **Privacy Law**), or (b) addressing the unsolicited distribution, transmission or dissemination of any communication.
11. Any gaining of any profit or advantage to which the **Insured** is not legally entitled.
12. Any patent infringement or theft, copying, display, or publication of any patent, process, or trade secret.
13. Any breach of contract, agreement, understanding, warranty (including but not limited to product warranty), or other guarantee or promise. This exclusion shall not apply to the following:
 - a. Solely with respect to actual or alleged breach of contract, liability that would have attached to the **Named Insured** in the absence of such contract; or
 - b. **PCI Fines**.
14. Any liability or obligation the **Named Insured**, or anyone acting on behalf of the **Named Insured**, assumes under any contract, agreement, understanding, warranty (including but not limited to product warranty), or other guarantee or promise. This exclusion shall not apply to the following:
 - a. Liability that would have attached to the **Named Insured** in the absence of any such contract, agreement, understanding, warranty or other guarantee or promise; or
 - b. **PCI Fines**.
15. Any seizure, nationalization, confiscation, destruction, deletion or expropriation of any **Protected Information** or any **Computer System** held or used by an **Insured** by order of any governmental authority.
16. Any of the following:
 - a. Violation of any federal, state, local, foreign legislation, regulation, or law prohibiting any restraint of trade or antitrust activity;
 - b. Any price fixing, price discrimination, monopoly or monopolization, predatory pricing, unfair competition, collusion, or conspiracy;
 - c. Any unfair, false, misleading, or deceptive trade or business practice; or
 - d. Any false, misleading, deceptive, or fraudulent statement or representation in advertising or promoting the products, services, or business of the **Named Insured**.

17. Any of the following:
 - a. Discrimination of any kind; or
 - b. Wrongful employment practice of any kind.
18. Any **Circumstances, Claim, Event, or Loss**:
 - a. That was the subject of notice to another insurer or potential indemnitor prior to the Effective Date of this **Endorsement**; or
 - b. **Discovered** prior to the Effective Date of this **Endorsement**, or could have been **Discovered** through the exercise of due diligence prior to the Effective Date of this **Endorsement**.
19. The presence, discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, oil or other petroleum substances or derivatives, waste materials or other irritants, contaminants, pollutants or any other substances, including asbestos, fungus, mold and lead, which are or may be injurious to public health, property or the environment ("hazardous substances"), including but not limited to:
 - a. The cost of cleanup or removal of hazardous substances;
 - b. The cost of such actions as may be necessary to monitor, assess and evaluate, the presence, discharge, dispersal, escape, release, or threat of same, of hazardous substances;
 - c. The cost of disposal of hazardous substances or the taking of such other action as may be necessary to temporarily or permanently prevent, minimize, or mitigate damage to the public health or welfare or to property or the environment, which may otherwise result; or
 - d. Any cost, based upon, arising out of, attributable to, caused by or resulting from, or involving in any way any government direction or request that the **Named Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize hazardous substances.
- B. The **Company** shall not be liable to pay for any **Claim** or **Damages** based upon, arising out of, attributable to, caused by or resulting from any **Claim** or **Damages**, whether actual or alleged, by any of the following:
 1. Any **Insured** against another **Insured**;
 2. Solely in the case of a **Privacy Breach Event**, by any person or entity other than an **Impacted Individual** or an **Impacted Entity**, or (solely in the case of a **Regulatory Proceeding Claim**) a federal or state regulatory body or regulator;
 3. Any entity owned or controlled by, or which is under common ownership or control with, the **Named Insured**;
 4. Any person or entity which owns or controls the **Named Insured**; or
 5. Any independent contractor of the **Named Insured**.

SECTION VII: GENERAL CONDITIONS

A. TERMINATION

The cancellation and nonrenewal provisions of the policy to which this **Endorsement** is attached shall apply to this **Endorsement**. This **Endorsement** shall remain in effect until the expiration of the **Endorsement Period** unless this **Endorsement** is removed at the request of the **Named Insured**, such removal to be confirmed by further endorsement to the policy.

B. CHANGE IN CONTROL

1. For purposes of this **Endorsement**, a "Sale Transaction" means either of the following that occurs during the **Endorsement Period**:
 - a. The **Named Insured** consolidates or merges with or into, or sells more than 50% of its assets to, any other person or entity or group of persons or entities acting in concert, such that the **Named Insured** is not the surviving entity; or

- b. Any person or entity or group of persons or entities acting in concert acquire more than 50% of the issued and outstanding voting equity securities of the **Named Insured** or control voting rights representing the right to vote for election of or to appoint more than 50% of the directors or trustees of the **Named Insured**.

In the event of a Sale Transaction, this **Endorsement** shall continue in full force and effect as to any **Event** first **Discovered** prior to the Sale Transaction. There shall be no coverage under this **Endorsement** for any **Event** first **Discovered** after the Sale Transaction. The **Named Insured** shall give the **Company** written notice of the Sale Transaction as soon as practicable but not later than thirty (30) days after the Sale Transaction.

- 2. For purposes of this **Endorsement**, an "Acquisition Transaction" means any of the following that occurs during the **Endorsement Period**:
 - a. The **Named Insured** consolidates or merges with any other person or entity or group of persons or entities acting in concert such that the **Named Insured** is the surviving entity;
 - b. The **Named Insured** acquires the assets of any other person or entity or group of persons or entities acting in concert, where such assets represent a market value, as of the date of such acquisition, of 10% or greater of the **Named Insured's** market value;
 - c. The **Named Insured** acquires or creates a new entity or subsidiary such that the **Named Insured** holds more than 50% of the issued and outstanding voting equity securities or controls voting rights representing the right to vote for election of or to appoint more than 50% of the directors or trustees of such entity or subsidiary; or
 - d. The subsequent addition of another entity or person as a **Named Insured** in addition to the entity or person listed at the time of the commencement of the **Endorsement Period** as the **Named Insured** on the Policy Declarations to which this **Endorsement** is attached.

In the event of an Acquisition Transaction, then there is coverage under this **Endorsement** for such additional entity, subsidiary or person for any **Claim, Loss, Event, or Circumstances** first **Discovered** within the sixty (60) day period immediately following the Acquisition Transaction or until the end of the **Endorsement Period**, whichever occurs first. There is no coverage for such additional entity, subsidiary or person after that time period unless (i) as soon as practicable but no later than thirty (30) days after the Acquisition Transaction, the **Named Insured** provides the **Company** with notice and the particulars of such Acquisition Transaction; (ii) the **Company** agrees to extend the coverage of this **Endorsement** to such surviving **Named Insured**, newly acquired or created entity or subsidiary, or additional entity or person, as applicable, and the **Company** amends the terms of this **Endorsement** accordingly; and (iii) the **Named Insured** pays any additional premium when due. Such extended coverage does not apply to any **Claim, Loss, Event, or Circumstances** first **Discovered** or that could have been first **Discovered** (either by a **Knowledge Group Member** or equivalent in such additional entity or subsidiary) through the exercise of due diligence (including but not limited to in compliance with Section V) before the Acquisition Transaction.

C. BANKRUPTCY

Bankruptcy or insolvency of the **Named Insured** will not relieve any **Insured** or the **Company** of any obligations nor deprive the **Company** of its rights and defenses under this **Endorsement** unless such obligations are in violation of applicable law.

D. EXCESS COVERAGE

This insurance shall be excess of any other insurance that applies to any **Claim, Event, Loss, Circumstances** or **Damages** covered hereunder and shall not contribute with any or all other insurance, including any deductible or retention, whether collectible or not. For avoidance of doubt, this insurance is specifically on an excess basis of any or all crime insurance policies that may be available with respect to any **Funds Transfer Fraud Event**.

E. ASSIGNMENT

This **Endorsement** and any and all interests and rights hereunder are not assignable without **Approval**.

F. TERMS TO CONFORM TO APPLICABLE LAW

Where necessary, the **Company** shall amend the terms and conditions of this **Endorsement** to conform to applicable law.

G. TERRITORY

This **Endorsement** applies to acts committed or **Losses** occurring anywhere in the world except as set forth under "Sanctions" in Section VII.H.; provided, however, that any **Claim** must be brought in the United States.

H. SANCTIONS

This Endorsement does not apply, and the **Company** shall not be liable to provide coverage or provide any benefit hereunder, to the extent that the provision of such coverage, payment of such claim or provision of such benefit would be in violation of any trade or economic sanctions law or regulation applicable to the **Company's** jurisdiction of domicile or those of another jurisdiction with which the **Company** is legally obligated to comply, including without limitation any trade or economic sanctions or embargo by the United States.

I. LEGAL ACTION AGAINST THE COMPANY

1. No legal action or claim may be brought against the **Company** based upon, arising out of, attributable to, caused by or resulting from this **Endorsement** unless the following criteria are met:
 - a. There has been full compliance by the **Insureds** with all the terms and conditions of this **Endorsement**; and
 - b. The action is brought within the limit of time provided under applicable law, but in no event later than sixty (60) months from the date the **Knowledge Group Member** first **Discovers** the earliest of any **Circumstances, Claim, Event** or **Loss** pertaining to such action.
2. In the event that the requirements set forth in Section VII.I.1 have been complied with, with respect to a legal action or claim against the **Company**, the amount of damages and losses shall be limited to the following:
 - a. The amount of a non-appealable order of a court or other tribunal (e.g., arbitral panel) resolving such dispute on the merits; or
 - b. The amount for which the legal action or claim was settled, provided that the settlement was agreed to in accordance with the terms and conditions of this **Endorsement**.

K. SUBROGATION

In the event of any payment under this **Endorsement**, the **Company** shall be subrogated to the extent of such payment to all the **Insured's** rights of recovery thereof, and the **Insured** shall execute all papers required and shall do everything that may be necessary to preserve and secure such rights, including the execution of such documents necessary to enable the **Company** to effectively bring suit in the name of the **Insured**.

The **Company** assumes no duty to recover any amounts paid under this **Endorsement**; however, any amounts as may be recovered pursuant to the exercise of the **Company's** rights of subrogation shall be applied as follows: (i) to the repayment of expenses incurred by the **Company** in exercising any rights of subrogation; (ii) to **Damages** and **Losses** incurred by the **Named Insured** in excess of the Limits of Liability hereunder; and (iii) to **Damages** and **Losses** paid by the **Company**.

L. HEADINGS

The titles of paragraphs, sections, provisions, or endorsements of or to this **Endorsement** are intended solely for convenience and reference, and are not deemed in any way to limit or expand the provisions to which they relate and are not part of the **Endorsement**.

SECTION VIII: DEFINITIONS

Except where this Endorsement expressly or by implication indicates otherwise, the plural of any term includes the singular, and the singular of any term includes the plural. To the extent of any conflict between defined terms in this **Endorsement** and the policy to which this **Endorsement** is attached, then the definitions set forth in this **Endorsement** shall prevail.

- A. **Approval** and **Approved** means the **Company's** written approval, including in response to a written request for approval by the **Named Insured**. Where **Approval** is required in this **Endorsement** the **Named Insured** must promptly submit such written request for **Approval** to the **Company**.

B. Circumstances means facts, subjects, situations, decisions, causes, persons, transactions, events, acts, errors or omissions, or class of persons or events, in each case which could reasonably be likely to give rise to a **Claim, Loss, or Event**, as applicable.

C. Claim means the following:

A Regulatory Proceeding Claim.

D. Claim Expenses means each of the following, with respect to any **Claim**:

1. Reasonable and necessary fees, costs and expenses charged by any **Vendor** and **Approved**, such **Vendor Approved** in advance (including lawyers, experts, and litigation support staff) for the investigation, adjustment, settlement and/or defense of such **Claim**;
2. Post-judgment interest which accrues after a **Final Judgment**; and
3. The premiums for appeal, attachment, or similar bonds, but only for bond amounts **Approved** and within the remaining applicable Limits of Insurance. The **Company** does not have any obligation to furnish these bonds.

Claim Expenses do not include the following:

- a. Salaries, wages, fees, remuneration, overhead, benefits, or expenses of the **Company** or the **Insureds**;
- b. Fees, costs, and expenses incurred prior to the time that a **Claim** was reported to the **Company**;
- c. Fees, costs, and expenses incurred without **Approval**;
- d. Fees, costs, and expenses incurred to improve or upgrade the **Computer System** beyond what it was prior to the **Claim**; or
- e. Fees, costs, and expenses to comply with any injunctive or other non-monetary equitable, declaratory, regulatory, or administrative relief.

E. Company means the insurer as titled on the Policy Declarations, to which this **Endorsement** is attached.

F. Computer System means a computer or series of interconnected computers owned or leased by, and operated under the control of the **Named Insured**. **Computer System** also includes the following, but only if owned or leased by and operated under the control of the **Named Insured**:

1. **Electronic Media**;
2. **Portable Devices**;
3. **IOT Devices**; and
4. **Peripheral Hardwired Devices**.

Computer System does not include a computer system the **Named Insured** operates for others.

G. Computer System Restoration Expenses means the reasonable and necessary fees, costs and expenses charged by a **Vendor** designated in writing or **Approved** in advance to restore the software in the **Computer System**, if damaged by a **System Compromise Event**, to its operating performance immediately before the **System Compromise Event**, including costs to reinstall, or replace the software, or the configuration or correction of the configuration of the **Computer System**. If such software cannot reasonably be restored, the term **Computer System Restoration Expenses** means the reasonable and necessary costs and expenses incurred by the **Vendor** to reach this determination.

Computer System Restoration Expenses does not include any of the following:

1. The cost of new or replacement hardware;
2. Salaries, wages, fees, remuneration, overhead, benefits, or expenses of the **Company** or the **Insureds**;
3. Fees, costs or expenses to enhance, upgrade or otherwise modify, or improve the **Computer System** beyond the level that existed immediately prior to the occurrence of a **System Compromise Event**, including but not limited to costs and expense to replace, remediate or improve the **Computer System**, or identify or remove software programs errors, malware, computer viruses or vulnerabilities or create or develop software or trade secrets; or

4. Any costs in excess of the cash value of the **Computer System** as of the date of the **System Compromise Event**.

H. **Corporate Information** means any business information of a third party, which is not available to the general public and is provided to an **Insured** subject to a mutually executed written confidentiality agreement with the **Named Insured**, or which the **Named Insured** is legally required to maintain in confidence. The **Corporate Information** must be in the direct care, custody or control of the **Named Insured** in the ordinary course and scope of its business operations. The term **Corporate Information** does not include **Personally Identifiable Information**.

I. **Crypto currency** means a digital or virtual currency that uses crypto currency for security and uses encryption techniques to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.

J. **Damages** means a **Regulatory Proceeding Claim**, **Claim Expenses** and only the **Regulatory Fines** the **Insured** becomes legally obligated to pay.

Damages does not include any of the following:

1. Any monetary amount which the **Insured** is not legally obligated to pay;
2. Any monetary amount which is not insurable under the applicable law or jurisdiction pursuant to which the **Endorsement** is construed;
3. Past, present and future earned and unearned royalties, profits, fees, costs, expenses, or commissions, or the return of royalties, profits, fees, costs, expenses, commissions, and profits unjustly held or obtained;
4. Consideration charged by, paid to or owed to the **Insured**, including but not limited to restitution, disgorgement, reduction, or return of any consideration;
5. Fees, costs and expenses required to comply with any injunctive or other non-monetary equitable, declaratory, regulatory, or administrative relief;
6. Discounts, prizes, awards, coupons, or other incentives offered to the **Insured's** clients, **Impacted Individuals**, or **Impacted Entities**;
7. Civil or criminal fines or penalties imposed by law, except **Regulatory Fines**;
8. Punitive and exemplary damages;
9. The multiple portion of any multiplied damages; or
10. Taxes, loss of tax benefit or fines, tax penalties or sanctions imposed against the **Named Insured**.

K. **Data Replacement Expenses** means the reasonable and necessary fees, costs and expenses charged by a **Vendor** designated in writing or **Approved** in advance to research, re-create or replace electronic data on the **Computer System** that is damaged by a **System Compromise Event**, provided that such research, re-creation or replacement must be from written records or electronic backup of such electronic data. If such electronic data cannot reasonably be researched, recreated or replaced, the term **Data Replacement Expenses** means the reasonable and necessary costs and expenses incurred by such **Vendor** to reach this determination.

Data Replacement Expenses does not include any of the following:

1. Salaries, wages, fees, remuneration, overhead, benefits, or expenses of the **Company** or the **Insureds**;
2. Fees, costs or expenses to enhance, upgrade or otherwise modify, or improve the **Computer System** beyond the level that existed immediately prior to the occurrence of a **System Compromise Event**, including but not limited to updating, upgrading or enhancing electronic data or replacing, remediating or improving any **Computer System**, or improving networks and data security practices, procedures or policies;
3. Re-creation or replacement of software programs or operating systems that are not commercially available; or
4. Re-creation or replacement of data that is obsolete, unnecessary or useless to the **Named Insured**.

- L. **Defrauded Funds** means the value of funds that are transferred by the **Named Insured** (with the approval of a **Knowledge Group Member**) to a third party directly in response to a **Funds Transfer Fraud Event**, that are in the form of check, wire transfer, credit card payment, debit card payment or **Crypto currency**. **Defrauded Funds** excludes cash payments.
- M. **Discovers** or **Discovered** means the time a **Knowledge Group Member** receives, receives notice of, or becomes aware of any of the following: (i) any **Event**; (ii) any **Circumstances**; or (iii) any **Claim** or **Loss** or potential **Claim** or **Loss**, regardless of the potential amount of the **Claim** or **Loss**.
- N. **Electronic Media** means any electronic data which is unique to the **Named Insured**, including audio or visual information, ready-for-use applications, programs, and other content in machine-readable format.
- O. **Endorsement** means this **Endorsement** issued by the **Company**.
- P. **Endorsement Period** means the period from the effective date stated in the Policy Declarations to which this **Endorsement** attaches to the expiration date stated in the Policy Declarations to which this **Endorsement** attaches, or its earlier cancellation date, if any.
- Q. **Event** means a **Privacy Breach Event**, a **System Compromise Event**, an **Extortion Threat Event**, a **Funds Transfer Fraud Event**, or a **PCI Security Violation Event**.
- R. **Exploit** means a vulnerability in a **Computer System** or software through which **Malicious Code**, or software designed to find, create, or take advantage of such vulnerability, can enter such **Computer System**.
- S. **Extortion Threat Event** means a credible threat, or a series of credible threats by a third party to cause or continue to cause one or more (i) **System Compromise Events** or (ii) the **Unauthorized Access or Unauthorized Use of Protected Information**, in each case accompanied by a demand by such third party for money (including **Crypto currency**) from the **Named Insured** or a **Knowledge Group Member** where the payment of such money is a condition of mitigation or removal of such threat or series of threats.
- T. **Extortion Threat Losses** means the **Funds Paid** by the **Named Insured** (with the approval of a **Knowledge Group Member**) in response to an **Extortion Threat Event** to the party that made the **Extortion Threat Event**, and the reasonable and necessary fees, costs, and expenses charged by a **Vendor** (including lawyers, experts, and litigation support staff) to respond to, confirm, negotiate or pay an **Extortion Threat Event**.
- U. **Final Judgment** means a non-appealable order of a court or other tribunal (e.g., arbitral panel) resolving, on the merits, a dispute between an **Insured** and a third party (including government agencies), as to which either no further appeal is possible or a decision is made with **Approval** not to appeal further.
- V. **Funds Transfer Fraud Event** means the intentional deception of an **Insured** by a third party intended to cause an **Insured** to transfer funds under the **Named Insured's** control (with the approval of a **Knowledge Group Member**) to a third party not authorized to receive such funds.
- W. **Funds Paid** means the value of the funds paid that are in the form of check, wire transfer, credit card payment, debit card payment or **Crypto currency**. **Funds Paid** excludes cash payments. For **Funds Paid** in **Crypto currency**, the value of the **Funds Paid** shall be the value of the **Crypto currency**, in U.S. dollars, at the time of payment.
- X. **Impacted Entities** means any business, entity or organization whose **Corporate Information** is lost, stolen, unintentionally or unknowingly disseminated, or accidentally published by a **Privacy Breach Event** covered under this **Endorsement**. This definition is subject to all of the following provisions:
 1. **Impacted Entity** does not include any **Impacted Individual**; and
 2. **Impacted Entity** may be domiciled anywhere in the world.
- Y. **Impacted Individuals** means any person whose **Personally Identifiable Information** is lost, stolen, unintentionally or unknowingly disseminated, or accidentally published by a **Privacy Breach Event** covered under this **Endorsement**. This definition is subject to all of the following provisions:
 1. **Impacted Individual** does not include any **Impacted Entity**. Only an individual person may be an **Impacted Individual**; and
 2. **Impacted Individual** may reside anywhere in the world.

- Z. IOT Device** means any electronic device (other than a **Portable Device**) or hardwire connected device, that connects to the **Computer System** directly or through a **VPN**. **IOT Devices** include, but are not limited to, smart printers, industrial control systems, security systems, smart speakers, smart televisions and smart appliances.
- AA. Insured** means the **Named Insured, Knowledge Group Members**, and the **Named Insured's** employees but only while such employees are acting within their capacity as such for the **Named Insured**.
- BB. Knowledge Group Member(s)** mean the **Named Insured's** principals, officers, directors, and risk managers, but only while acting in their capacity as such for the **Named Insured**.
- CC. Loss(es)** means **Privacy Breach Expenses, Data Replacement Expenses, Computer System Restoration Expenses, Extortion Threat Losses, PCI Fines, and Defrauded Funds**.
- Loss(es)** do not include:
1. Costs and expenses required to comply with any injunctive or other non-monetary equitable, declaratory, regulatory, or administrative relief, including but not limited to costs to remove electronic data from a website or social media site;
 2. Any monetary amount which is not insurable under the applicable law or jurisdiction pursuant to which the **Endorsement** is construed;
 3. Discounts, prizes, awards, coupons, or other incentives offered to the **Insured's** clients, **Impacted Individuals, or Impacted Entities**;
 4. Consideration charged by, paid to or owed to the **Insured**, including but not limited to restitution, disgorgement, reduction, royalties or licensing fees, or return of any consideration;
 5. Any costs, fees or expenses incurred or paid by the **Insured** in establishing the existence of or amount of **Loss**, other than to a **Vendor** (including lawyers, experts, and litigation support staff) designated in writing or **Approved** in advance;
 6. Fines, taxes, penalties, loss of tax benefits or sanctions, except for **PCI Fines**; or
 7. Indirect or consequential losses.
- DD. Malicious Code** means an unauthorized or harmful program, code, or script, including but not limited to any virus, Trojan horse, worm, time or logic bomb, spyware, ransomware, or malware.
- EE. Mass Event** means the original and any variant of a **Malicious Code** or **Exploit** that is both:
1. The subject of an alert by, or is identified by a name or designation that is assigned by, any (i) United States (federal or state) government entity or agency or (ii) computer security, forensics, threat intelligence, or anti-virus entity, service provider or vendor (including but not limited to CrowdStrike, Juniper Networks, Mandiant/FireEye, Norton, Malwarebytes, McAfee, Kaspersky, Digital Shadows, RiskIQ, Recorded Future, Flashpoint, Anomali, Mimecast, Proofpoint, Palo Alto Networks, RSA, Seculert/Radware, Symantec, or Verizon); and
 2. Publicized (meaning reported on in two or more news or technology media or publications, including but not limited to The New York Times, Washington Post, Los Angeles Times, Financial Times, FOX Corporation, CNN, The Wall Street Journal, NBC News, ABC News, CBS News, VICE Motherboard, Data Breach Today, Krebs on Security, Dark Reading, ZD NET, Wired, PC World, The Register, or CSO Online);
- in each case, prior to an **Insured** providing notice of an **Event, Loss, Claim** or **Circumstances**, whichever is earliest, pursuant to Section IV. A.
- FF. Named Insured** means the person(s) and/or entity(ies) listed on the Policy Declarations, to which this **Endorsement** is attached.
- GG. Payment Card Services Agreement** means an agreement between the **Named Insured** and a financial institution, credit card or debit card company or credit or debit card processor, enabling the **Named Insured** to accept credit card, debit card, prepaid card or other payment cards for payments.
- HH. PCI Claim** means the notification of the **Named Insured's** failure to comply with or violation of any Payment Card Industry Data Security Standards established by the PCI Security Standards Council, which notification is by a party who has entered into a **Payment Card Services Agreement** with the **Named Insured**.

- II. PCI Fines** means the fines paid which are explicitly defined as a "fine" in, and which the **Named Insured** is contractually obligated to pay pursuant to a **Payment Card Services Agreement** due to a breach of a **Payment Card Services Agreement** caused by a **PCI Security Violation Event**. **PCI Fines** do not include (i) subsequent fines arising out of continued noncompliance or the same breach, (ii) any increased transaction costs, or (iii) any chargebacks.
- JJ. PCI Security Violation Event** means the act or omission of the **Named Insured** that violated the Payment Card Industry Data Security Standards as determined in accordance with the terms of the **Payment Card Services Agreement**.
- KK. Peripheral Hardwired Devices** means non-portable devices connected by hardwire to the **Computer System**, including but not limited to printers, scanners, and routers.
- LL. Personally Identifiable Information** means any non-public information about a person that allows such person to be uniquely and reliably identified, or allows access to the person's financial account or medical records information, and for which notification of unauthorized access is required by a **Privacy Law**. The term **Personally Identifiable Information** does not include publicly available information that is lawfully made available to the general public (including, without limitation, being made available by such person on social media or other public sites), or **Corporate Information**. The **Personally Identifiable Information** must be in the direct care, custody or control of the **Named Insured** in the ordinary course and scope of its business operations.
- MM. Portable Device** means an electronic portable device such as a computer, smart phone, smart wearable or other similar device that connects to the **Computer System** either directly or through a VPN.
- NN. Privacy Breach Event** means the following actual or alleged events:
1. Theft, loss, unintentional or unknowing dissemination, or accidental publication of **Protected Information**;
 2. **Unauthorized Access or Unauthorized Use of Protected Information**; or
 3. The **Named Insured's** violation of a **Privacy Law**.
- OO. Privacy Breach Expenses** means the following reasonable and necessary fees, costs and expenses directly incurred for or by the **Named Insured**, and **Approved** in advance, in responding to a **Privacy Breach Event**:
1. **Notification Expenses:**
Notification fees and expenses charged by a **Vendor** (including lawyers, experts, and litigation support staff) to notify an **Impacted Individual** and any regulator required to be notified by applicable law that: (i) a **Privacy Breach Event** occurred, and (ii) there was, may have been or may be **Unauthorized Access or Unauthorized Use** of the **Personally Identifiable Information**.
 2. **Monitoring Expenses:**
Fees and expenses charged by a **Vendor** (including lawyers, experts, and litigation support staff) to provide credit monitoring, identity theft, or fraud resolution services to an **Impacted Individual** affected by a **Privacy Breach Event**.
 3. **Cyber Investigation Expenses:**
Fees and expenses charged by a **Vendor** (including lawyers, experts, and litigation support staff) to investigate any or all of the following:
 - a. Whether **Protected Information** has been accessed; or
 - b. Whether the **Named Insured** has an obligation to provide notice under a **Privacy Law**.
 4. **Crisis Management Expenses:**
 - a. Fees and expenses charged by an **Approved** public relations firm, law firm or crisis management firm to perform crisis management services to minimize the potential harm to the **Named Insured's** business from a **Privacy Breach Event**; and
 - b. Fees and expenses charged by a call center designated in writing or **Approved** in advance to assist in managing incoming calls during and concerning a **Privacy Breach Event**.

Privacy Breach Expenses shall not include the following:

- (1) Salaries, wages, fees, remuneration, overhead, benefits, or expenses of the **Company** or the **Insureds**; or
- (2) Fees, costs or expenses to enhance, upgrade or otherwise modify, or improve the **Computer System** beyond the level that existed immediately prior to the occurrence of a **Privacy Breach Event**.

PP. Privacy Law means any law or regulation governing the protection of **Personally Identifiable Information**, provided that the text of the law or regulation expressly requires one or more of the following:

1. Posting privacy policies;
2. Adopting specific privacy or security controls for **Personally Identifiable Information**; or
3. Notifying **Impacted Individuals** if their **Personally Identifiable Information** has potentially been accessed or disclosed without authorization.

QQ. Protected Information means **Personally Identifiable Information** or **Corporate Information**.

RR. Regulatory Fines means the civil or administrative fines or penalties assessed against a **Named Insured** in a **Regulatory Proceeding Claim**, if such fines and penalties are insurable under the applicable law and the **Named Insured** is legally obligated to pay such fines and penalties, in all cases arising from a **Privacy Breach Event**.

SS. Regulatory Proceeding Claim means each of the following that alleges the failure to comply with a U.S. federal or state **Privacy Law**:

1. A written demand to the **Named Insured** for documentation or information commenced by service of a complaint or similar pleading brought by a federal or state regulatory body or regulator; or
2. An investigation or civil proceeding brought against the **Named Insured** by a federal or state regulatory body or regulator.

TT. Related Claims mean all **Claims** that are based upon, arising from, in consequence of, directly or indirectly resulting from, or involving the same, continuous, repeated, related, or substantially similar **Circumstances**, or a same, continuous, repeated, related, or substantially similar series of **Circumstances**.

UU. Related Events means all **Events** that are based upon, arising from, in consequence of, directly or indirectly resulting from, or involving the same, continuous, repeated, related, or substantially similar **Circumstances**, or a same, continuous, repeated, related, or substantially similar series of **Circumstances**.

VV. Related Losses mean all **Losses** that are based upon, arising from, in consequence of, directly or indirectly resulting from, or involving the same, continuous, repeated, related, or substantially similar **Circumstances**, or a same, continuous, repeated, related, or substantially similar series of **Circumstances**.

WW. System Compromise Event means the **Unauthorized Access** or **Unauthorized Use** of the **Computer System**, or the introduction of **Malicious Code** or **Exploit** into the **Computer System**, that materially degrades or damages the performance of the **Computer System** or corrupts or destroys any **Electronic Media** in the **Computer System**.

XX. Unauthorized Access or Unauthorized Use means the access to or use of the **Computer System** or **Protected Information** by a person or entity not authorized to do so, or the access to or use of the **Computer System** or **Protected Information** by an authorized person or entity in an unauthorized manner.

YY. Vendor means a third party person or entity that provides services to the **Named Insured** that the **Company** has either (i) designated in writing, or (ii) **Approved**. Where indicated, the term **Vendor** may include lawyers, experts, and litigation support staff.

ZZ. VPN means a virtual private network.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CONDITIONS - PREMIUM AUDIT

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
- PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
- PROFESSIONAL LIABILITY COVERAGE PART

A. The Premium Audit Condition under **Section IV - Conditions** is **replaced** by the following:

Premium Audit

1. We will compute all premiums for this Coverage Part in accordance with our rules and rates. Premium shown in this Coverage Part as advance premium is a minimum and deposit premium.

The rates for each classification shown in the Declarations are multiplied by the estimated premium bases of that classification for the term to determine the advance premium.

We may conduct an audit of your books to determine the actual premium bases developed during the policy period. To calculate the actual premium developed during the policy period we will use one, or a combination, of the following premium bases: payroll, admissions, gross sales, total cost or each exposure unit.

2. If we determine, whether by audit of your books and records or otherwise, that you are conducting operations not scheduled on this policy, we may add the appropriate classifications and compute the rates and premiums in accordance with our rules and rates in effect on the inception date of this policy, unless coverage has been restricted to "designated operations".

3. Premium Bases.

The premium bases are defined in accordance with our rules and the following additional definitions:

a. **Payroll** (premium basis symbol **p**): Remuneration paid to "employees", "casual laborers", "temporary workers", day laborers, statutory workers, seasonal workers or "leased workers", including but not limited to:

(1) Money or substitutes for money; commissions; bonuses; overtime; payments to statutory insurance or pension plans; profit sharing or incentive plans; pay for holidays, vacation or sickness; and fees paid to employment agencies for temporary personnel provided to you.

(2) If your operations consist of a number of separate operations classified individually in the Declarations, the payroll will be allocated to each classification where you have maintained records for each separate operation. Any such operation for which separate records are **not** maintained by you will be assigned to the highest rated classification.

(3) For premium computation purposes, the payroll of executive officers, individual insureds and co-partners is subject to a minimum annual payroll per person of:

\$

(If no entry is made, the minimum payroll as established by our rating rules will apply.)

The rates apply per \$1,000 of Payroll.

b. **Admissions** (premium basis symbol **m**): The total number of persons, other than your "employees", admitted to the insured event or to events conducted on the premises whether on paid admissions, tickets, complimentary tickets or passes.

The rates apply per 1,000 Admissions.

- c. Gross Sales** (premium basis symbol **s**): The gross amount charged by you, your concessionaires or by others trading under your name for:
- (1) All goods or products, sold or distributed;
 - (2) Operations performed during the policy period; and
 - (3) Rentals; or
 - (4) Dues or fees.

The rates apply per \$1,000 of Gross Sales.

- d. "Total Cost"** (premium basis symbol **c**) means the total cost of all work let or sublet in connection with each specific project including:

- (1) The cost of all labor, materials and equipment furnished, used or delivered for use in the execution of the work including the cost of finished equipment installed whether or not furnished by the contractor, or subcontractor, or by you; and
- (2) All fees, bonuses or commissions made, paid or due.

The rates apply per \$1,000 of Total Cost.

- e. Each** (premium basis symbol **t**): This basis of premium involves units of exposure, and the quantity comprising each unit of exposure is indicated in the Declarations, such as "per person".

The rates apply per each unit of exposure.

4. The first Named Insured, or their authorized representative, must keep accurate records of the information we need for premium computation and send us copies at such times as we may request. Failing to supply such records upon request, or providing incorrect, incomplete or false records, or omitting, misrepresenting or misstating material facts will be deemed a breach of condition and will subject this policy, and may subject any in force policy of yours, to cancellation for breach of conditions.
5. We reserve the right to examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.
6. Premium shown in this Coverage Part as advance premium is a minimum and deposit premium. Advance premium includes any payments identified as premium paid prior to policy expiration. At the close of each audit period, we will compute the earned premium for that period. Audit premium is due and payable upon notice to the first Named Insured. Failure to pay the audit premium due will be deemed a breach of contract and subject this policy, and may subject any in force policy of yours, to cancellation for non-payment of premium.
 - a. If the actual earned premium generated as a result of an audit for the policy period is less than the advance premium, such advance premium is the minimum premium for the policy period indicated and is not subject to adjustment.
 - b. If the actual earned premium generated as a result of an audit for the policy period is greater than the advance premium, then a final premium adjustment endorsement will be issued. The additional premium amount shown on the final premium adjustment endorsement is due and payable to us upon notice to the first Named Insured.

7. Estimated Annual Audit Procedure.

If, after three documented attempts, we are unable to examine your books and records to obtain the information necessary to complete the audit, we may implement our estimated audit procedure as outlined below:

- a. An Estimated Audit Endorsement will be issued reflecting a fifty percent (50%) increase in your reported premium basis. This increase is an estimate based on information we have on file, or your business operations.
- b. If you agree with the Estimated Audit Endorsement, you must remit payment for the full amount of the estimated audit; or
- c. If you dispute the Estimated Audit Endorsement, you must provide the requested audit information so we can calculate the proper earned premium developed for the policy period.

8. Cancellation Audit Procedure.

- a. If the policy is canceled prior to the expiration date the first Named Insured retains the unearned premium; we will retain the earned premium developed by:
 - (1) Multiplying the advance premium by the applicable pro-rata factor, short-rate factor, or minimum earned premium percentage; or
 - (2) An audit of your books and records for the period the policy was in force, whichever is greater.
- b. If the actual earned premium generated as a result of an audit is greater than the advance premium paid at issuance, then a final premium adjustment endorsement will be issued. The additional premium amount shown on the final premium adjustment endorsement is due and payable to us upon notice to the first Named Insured.

B. The following definitions are **added** to the **Definitions** section:

- 1. "Casual laborers" are persons who provide services that are performed in the course of the employing unit's trade or business regardless of the amount of remuneration received or the length of time the services are provided.
- 2. "Designated operations" means only those operations performed by any insured that are described on the Common Policy Declarations, the General Liability Coverage Part Declarations, or the endorsements or supplements of this insurance.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES (PFAS) EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is **added**:

1. This insurance does not apply to:

- a.** "Bodily injury", "property damage", "personal and advertising injury", medical expenses, damages (including but not limited to punitive damages or exemplary damages), loss, penalties, fines, fees, costs or expenses, or any other relief, of any kind whatsoever; and/or
- b.** Any claim, demand obligation, request, investigation, notice, order, action, settlement, consent decree, agreement, remediation program, suit, or proceeding, of any kind whatsoever, including but not limited to civil, criminal, administrative, or regulatory, brought by or on behalf of a "governmental authority", natural person, business, organization, or other entity;

actually or allegedly, and directly or indirectly, arising from or out of, caused by, based upon, attributable to, related to, contributed to by, or in any way involving, in whole or in part:

(1) "PFAS", including but not limited to any actual, alleged, threatened, potential, or suspected:

- (a)** Breach of duty, breach of standard of care, act, error, omission, failure to properly act, failure to properly perform any service or professional service, or a violation of any law, statute or regulation in relation to "PFAS";
 - (b)** Inhalation, ingestion, absorption, consumption, discharge, dispersal, handling, testing, flaking, leakage, leaching, friability, migration, seepage, release of, escape of, contact with, exposure to, existence of, or presence of "PFAS";
 - (c)** Use, including but not limited to any mandated, sanctioned, authorized, permitted or suggested use, development, manufacture, production, processing, incorporation, packaging, design, distribution, sale, resale, re-branding, handling, transport, replacement, marketing, or advertising of "PFAS" or anything containing "PFAS"; or
 - (d)** Warnings, notices or instructions regarding "PFAS" or anything containing "PFAS" or failure to provide warnings, notices or instructions regarding "PFAS" or anything containing "PFAS";
- (2)** Investigating, abating, testing for, monitoring for, cleaning up, removing, containing, studying, remediating, mitigating, disposing of, treating, detoxifying, neutralizing, or in any way responding to, addressing, or assessing "PFAS", and/or the actual, alleged, threatened, potential, or suspected effects or presence of "PFAS", whether in the environment, on property, in a human, animal, or any other living or non-living thing or otherwise; or
- (3)** Warranties or representations made at any time regarding "PFAS" or anything containing "PFAS", including but not limited to the safety, fitness, quality, durability, performance, toxicity or environmental persistence of "PFAS" or anything containing "PFAS", or warranties or representations made at any time regarding anything described in paragraphs **(1)** or **(2)** above.

2. The foregoing provisions apply:

- a.** Regardless of whether any other cause, event, material, substance, compound, good or product (including but not limited to "your product"), contributed concurrently or in any sequence to any "bodily injury", "property damage", "personal and advertising injury", medical expenses, damages (including but not limited to punitive damages or exemplary damages), loss, penalties, fines, fees, costs or expenses or any other relief, of any kind whatsoever;
- b.** To any obligations assumed by you or any other insured under an "insured contract" or any other agreement;

- c. Regardless of whether the "products-completed operations hazard" applies;
 - d. Regardless of whether there was a permit, authorization or requirement to use "PFAS", incorporate "PFAS" into your product or release "PFAS" into the environment, or whether any use, incorporation or release was legally permissible or in compliance with permissible levels set by a "governmental authority";
 - e. To any workplace exposure or occupational exposure to "PFAS" or occupational disease actually or allegedly attributable to "PFAS"; and
 - f. To preclude coverage for the entire claim, demand, obligation, request, investigation, notice, order, action, settlement, consent decree, agreement, remediation program, suit, or proceeding, when only a portion of the foregoing involves or concerns "PFAS" or anything containing "PFAS", even if any other portion would have been covered under this Policy or a duty to defend would have been owed in the absence of "PFAS".
- B.** The following definitions are **added** to the **Definitions** section:
1. "PFAS" means:
 - a. Any fluorinated chemical containing at least one fully or partially fluorinated carbon atom, whether polymer or non-polymer, including but not limited to: any perfluoroalkyl and polyfluoroalkyl substances, perfluoroalkyl acid(s), perfluorooctanesulfonic acid(s), perfluoroalkane, hexafluoropropylene oxide-dimer acid(s), perfluorobutanesulfonic acid(s), perfluorohexanesulfonic acid(s), perfluoroalkane sulfonamides, perfluoroalkyl ether carboxylic acid(s) (including, without limitation, perfluoro-butanoic, perfluoro-hexanoic, perfluoro-octanoic, perfluoro-nonanoic, and perfluoro-decanoic acids), fluorotelomer substances, perfluoroalkane sulfonamide substances, perfluoroalkane sulfonyl fluorides, perfluorodecane sulfonate, ammonium perfluorooctanoate, perfluoroalkyl iodides, per- and polyfluoroalkyl ether-based substances, fluoropolymers, side-chain fluorinated polymers, perfluoropolyethers, perfluorosulfonic acid salts, perfluorosulfonate salts, perfluorocarboxylic acid salts, perfluorocarboxylate salts, all of the foregoing by whatever names known, including but not limited to chemical names, trade names (e.g., "GenX" or "ADONA"), or any other name or descriptor (e.g., "C8");
 - b. Any chemical now or in the future related or similar to the items contained in **B.1.a.** including but not limited to those identified in (i) any of the U.S. Environmental Protection Agency's chemical lists, (ii) list of per- and polyfluoroalkyl substances subject to toxic chemical release reporting under section 313 of the U.S. Emergency Planning and Community Right to Know Act ("EPCRA"), 42 U.S.C. § 11001 et seq., including those now or in the future listed in 40 C.F.R. § 372.65, or (iii) any statute, law, regulation, rule or written proposed rule, guidance document, list or bulletin issued, adopted, or maintained by any "governmental authority";
 - c. Any polymers, oligomers, monomers, non-polymer chemicals, homologues, isomers, telomers, salts, esters, alcohols, acids, precursors, degradants, derivatives, and breakdown products or by-products associated with any chemical or substance described in paragraphs **B.1.a.** or **B.1.b.** of this definition; or
 - d. Any good product, substance, mixture, food, liquid, supplement, and/or medication, including containers, materials, parts, equipment, or packaging furnished in connection with such good, product, substance, mixture, food, liquid, supplement, and/or medication, that consists of or contains anything described in paragraphs **B.1.a.**, **B.1.b.** or **B.1.c.** of this definition.
 2. "Governmental authority" means any national, domestic, international, foreign, federal, state, provincial, local or tribal government or other political subdivision thereof, whether within or outside the United States, and any agency, body, unit, entity, or any other instrumentality thereof, exercising executive, legislative, judicial, regulatory, or administrative functions of government.
- C.** In the event of any direct or indirect conflict between the terms of this endorsement and any other form or endorsement attached to the Policy, the conflicting term(s) in this endorsement shall prevail.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – BIOMETRIC INFORMATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added:

This insurance does not apply to:

Biometric Information

"Bodily injury", "property damage", "personal and advertising injury", damages, costs or expenses, either directly or indirectly because of, caused by or arising out of:

1. Any actual or alleged collection, use, access, safeguarding, sharing, storage, retention, conversion, disclosure, printing, recording, sale, disposal, transmitting, distributing, or destruction of any "biometric identifiers" or "biometric information", or failure to obtain consent for any of the foregoing; or
2. A claim, investigation, demand, "suit" or proceeding involving an actual or alleged invasion of privacy or violation of a right to privacy involving or related to "biometric identifiers" or "biometric information"; or
3. An actual or alleged violation of any privacy law, including the Illinois Biometric Information Privacy Act (BIPA), the California Consumer Privacy Act (CCPA), the California Privacy Rights Act (CPRA), European Union General Data Protection Regulation (GDPR) or any other similar law, ordinance, regulation, or statute anywhere in the world that governs or relates to the collection, use, access, safeguarding, sharing, storage, retention, conversion, disclosure, printing, recording, sale, disposal, transmitting, distributing, or destruction of any "biometric identifiers" or "biometric information" or obtaining consent for any of the foregoing.

This exclusion applies regardless of any insured's culpability or intent and regardless of whether the claim, investigation, demand, "suit", proceeding or allegation against any insured alleges negligence or other wrongdoing in the supervision, hiring, employment, training, or monitoring of others by any insured.

We will have no duty to investigate, defend or indemnify any insured against any loss, claim, "suit", demand, fine, or proceeding alleging damages of any kind arising out of any of the above.

B. The following definitions are added:

1. "Biometric identifiers" means any physical, genetic, physiological, biological, or behavioral characteristic or attribute that allows an individual to be identified. Without limiting the foregoing, "biometric identifiers" includes but is not limited to the following:
 - a. Retina or iris scan;
 - b. Fingerprint;
 - c. Voiceprint;
 - d. DNA;
 - e. Finger, hand, or palm scan;
 - f. Scan of hand or face geometry;
 - g. Vein patterns;
 - h. Voice recordings;
 - i. Keystroke patterns or rhythms;
 - j. Gait patterns or rhythms;
 - k. Sleep, health, or exercise data that contain identifying information; or

- I. Any other biometric algorithm or measurement of **a.** through **k.** or any other physical, genetic, physiological, biological or behavioral characteristic or attribute which allows an individual to be identified.
2. "Biometric information" means any information, regardless of how it is captured, converted, stored, or shared, that is based on, or includes, any "biometric identifiers".

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – HUMAN TRAFFICKING

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is **added**:

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury", damages, costs, or expenses arising out of any actual, alleged, suspected or threatened "human trafficking" of any person, for any reason, under any circumstance, including but not limited to:

1. "Human trafficking" committed or caused, directly or indirectly, by any person or entity;
2. Failure to suppress or prevent "human trafficking" by any person or entity;
3. Failure to provide an environment secure from "human trafficking";
4. Failure to warn of the dangers of the environment which could contribute to "human trafficking";
5. Failure to render or secure medical treatment or care following any "human trafficking";
6. Reporting to the proper authorities, or failure to so report; or
7. Conduct, act or omission prohibited by, in violation of, or for which penalties or civil remedies are provided under the Trafficking Victims Protection Act of 2000, as amended, or under any federal, state, local or foreign statute, ordinance or regulation related to "human trafficking".

This exclusion applies regardless of any insured's culpability or intent and regardless of whether the claim, investigation, demand, "suit", proceeding or allegation against any insured alleges negligence or other wrongdoing in the supervision, hiring, employment, retention, training, or monitoring of others by any insured.

This exclusion further applies regardless of whether such conduct described above was performed by any insured, "employee", patron, or any other person, and regardless of whether such conduct occurred at any premises owned or occupied by any insured.

We will have no duty to defend or indemnify any insured in any action or proceeding alleging damages arising out of any of the above.

B. The following definitions are **added**:

1. "Human trafficking" means the recruitment, inducement, grooming, transportation, transfer, facilitation, detention, harboring, provision, obtaining, patronizing, soliciting, using, trading, or receipt of person(s) through any means whatsoever including, but not limited to, the use of force, fraud, coercion, manipulation, threat, compulsion, or deception, for the purpose of subjecting such person(s) to sexual exploitation, organ harvesting or donation, smuggling, involuntary servitude, peonage, debt bondage, labor, slavery, or "sex trafficking". "Human trafficking" also includes the use of forced labor or services of a person who is under conservatorship or guardianship, or who has not attained the age of majority.
2. "Sex trafficking" means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, forcing, inducing, coercing, or obtaining another person to perform sexual acts, prostitution or other commercial sex acts, or other physical acts for the sexual gratification of others, through any means whatsoever including, but not limited to, the use of force, fraud, coercion, manipulation, threat, compulsion or deception, or in which the person performing such act is under conservatorship or guardianship, or has not attained the age of majority.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**DEDUCTIBLE LIABILITY INSURANCE
(Including Supplementary Payments)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Coverage	SCHEDULE	
	Amount And Basis Of Deductible*	
	Per Claim	Per Occurrence Or Offense
Bodily Injury Liability - OR -	\$	- OR - \$
Property Damage Liability - OR -	\$	- OR - \$
Bodily Injury Liability and Property Damage Liability Combined	\$ 500	- OR - \$
Personal And Advertising Injury Liability - OR -	\$	- OR - \$
Bodily Injury Liability, Property Damage Liability, and Personal And Advertising Injury Liability Combined	\$	- OR - \$

*A deductible applies where an amount is stated in the above Schedule

- A. Our obligation under the Bodily Injury Liability, Property Damage Liability, and Personal And Advertising Injury Liability Coverages to pay damages on your behalf applies only to the amount of damages in excess of the deductible amounts stated in the above Schedule as applicable to such coverages. Such deductible amount(s) also apply in excess of amounts incurred under Supplementary Payments.
- B. You may select a deductible amount on either a Per Claim or a Per Occurrence Or Offense basis. Your selected deductible applies to the coverage option and to the basis of the deductible indicated by the placement of the deductible amount in the above Schedule. The deductible amount stated in the above Schedule applies as follows:
 - 1. **PER CLAIM BASIS.** If the deductible amount indicated in the Schedule is on a per claim basis, that deductible applies as follows:
 - a. Under Bodily Injury Liability Coverage, to all damages sustained by any one person because of "bodily injury";
 - b. Under Property Damage Liability Coverage, to all damages sustained by any one person because of "property damage"; or
 - c. Under Bodily Injury and Property Damage Liability Coverage Combined, to all damages sustained by any one person because of:
 - (1) "Bodily injury";
 - (2) "Property damage"; or
 - (3) "Bodily injury" and "property damage" combined
 as the result of any one "occurrence".
 - d. Under Personal And Advertising Injury Liability Coverage, to all damages sustained by any one person or organization because of "personal and advertising injury"; or
 - e. Under Bodily Injury and Property Damage Liability Coverage and Personal And Advertising Injury Liability Coverage Combined, to all damages sustained by any one person because of:

- (1) "Bodily injury";
- (2) "Property damage";
- (3) "Personal and advertising injury"; or
- (4) "Bodily injury", "property damage" and "personal and advertising injury" combined

as the result of any one "occurrence" or offense, as applicable.

If damages are claimed for care, loss of services, loss of support or death resulting at any time from "bodily injury", a separate deductible amount will be applied to each person making a claim for such damages.

With respect to "property damage" and "personal and advertising injury", person includes an organization.

2. PER OCCURRENCE OR OFFENSE BASIS. If the deductible amount indicated in the Schedule is on a Per Occurrence Or Offense basis, that deductible amount applies as follows:

- a. Under Bodily Injury Liability Coverage, to all damages because of "bodily injury";
- b. Under Property Damage Liability Coverage, to all damages because of "property damage"; or
- c. Under Bodily Injury and Property Damage Liability Coverage Combined, to all damages because of:
 - (1) "Bodily injury";
 - (2) "Property damage"; or
 - (3) "Bodily injury" and "property damage" combined

as the result of any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence".

- d. Under Personal And Advertising Injury Liability Coverage, to all damages because of "personal and advertising injury" as the result of any one offense, regardless of the number of persons or organizations who sustain damages because of that offense; or

- e. Under Bodily Injury and Property Damage Liability and Personal And Advertising Injury Liability Coverage Combined, to all damages because of:

- (1) "Bodily injury";
- (2) "Property damage";
- (3) "Personal and advertising injury"; or
- (4) "Bodily injury", "property damage", and "personal and advertising injury" combined

as the result of any one "occurrence" or offense, as applicable, regardless of the number of persons or organizations who sustain damages because of that "occurrence" or offense.

C. The deductible amount stated in the Schedule applies to damages and Supplementary Payments incurred, whether or not indemnity or loss payment is made.

D. The terms of this insurance, including those with respect to:

1. Our right and duty to defend the insured against any "suits" seeking those damages; and
2. Your duties in the event of an "occurrence", offense, claim or "suit"

apply irrespective of the application of the deductible amount.

E. We may, at our sole election and option, either:

1. Pay any part or all of the deductible amount to effect settlement of any claim or "suit" and upon notification of the action taken, you will promptly reimburse us for such part of the deductible amount as has been paid by us; or
2. Upon our receipt of notice of any claim or at any time thereafter, request you to pay and deposit with us all or any part of the deductible amount, to be held and applied according to the terms of this policy.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CROSS CLAIMS OR SUITS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is **added** to **2. Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability, Coverage B – Personal And Advertising Injury Liability** and **Coverage C – Medical Payments**:

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or medical payments arising out of occurrences between two or more members. Members include all active, inactive, auxiliary or national members, and any owners or unit owners of any Named Insured.

We will have no duty to investigate, defend or indemnify any insured in any action or proceeding alleging damages arising out of the above.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF LIQUOR LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion **c. Liquor Liability** under Paragraph **2. Exclusions** of **Section I - Coverage A - Bodily Injury and Property Damage Liability** is **replaced** by the following:

This insurance does not apply to:

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person, including causing or contributing to the intoxication of any person because alcoholic beverages were permitted to be brought on your premises, for consumption on your premises;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured or his indemnitee allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

This exclusion applies only if you:

- (1) Are an owner or lessor of premises used for activities described in (2), (3), (4) or (5) below whether such activities are performed with or without your knowledge;
- (2) Manufacture, sell or distribute alcoholic beverages;
- (3) Serve or furnish alcoholic beverages for a charge where the activity:
 - (a) Requires a license; and
 - (b) Is for the purpose of financial gain or livelihood;
- (4) Serve or furnish alcoholic beverages without a charge, if a license is required for such activity; or
- (5) Permit any person to bring any alcoholic beverages on your premises, for consumption on your premises.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – DIRECTORS AND OFFICERS LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A.** The following exclusion is **added to 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability, Coverage B – Personal And Advertising Injury Liability and Coverage C – Medical Payments:**

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or medical payments arising out of any actual or alleged:

1. Error or omission;
2. Malpractice or mistake;
3. Negligence;
4. Breach of duty;
5. Malfeasance, misfeasance, or nonfeasance; or
6. Misstatement or misleading statement

by your directors or officers.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury" involved that which is described above.

- B.** We will have no duty to investigate, defend or indemnify any insured in any action or proceeding alleging damages arising out of any of the above.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - ASBESTOS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Coverage B - Personal And Advertising Injury Liability and Coverage C - Medical Payments:

This insurance does not apply to:

1. "Bodily injury", "property damage", "personal and advertising injury", medical payments or "reduction in value" related to the actual, alleged, or threatened presence of, or exposure to "asbestos" in any form, or to harmful substances emanating from "asbestos". This includes ingestion, inhalation, absorption, contact with, existence or presence of, or exposure to "asbestos". Such injury from or exposure to "asbestos" also includes, but is not limited to:
 - a. The existence, installation, storage, handling or transportation of "asbestos";
 - b. The removal, abatement or containment of "asbestos" from any structures, materials, goods, products, or manufacturing process;
 - c. The disposal of "asbestos";
 - d. Any structures, manufacturing processes, or products containing "asbestos";
 - e. Any obligation to share damages with or repay someone else who must pay damages because of such injury or damage; or
 - f. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above.
2. Any loss, cost or expense, including, but not limited to payment for investigation or defense, fines, penalties and other costs or expenses, arising out of any:
 - a. Claim, "suit", demand, judgment, obligation, order, request, settlement, or requirement by or on behalf of any authority, governmental or otherwise, that any insured or any other person or entity test for, monitor, clean up, remove, contain, mitigate, treat, neutralize, remediate, or dispose of, or in any way respond to, or assess the actual or alleged effects of "asbestos"; or
 - b. Claim, "suit", demand, judgment, obligation, request, or settlement due to any actual, alleged, or threatened injury or damage from "asbestos" or testing for, monitoring, cleaning up, removing, containing, mitigating, treating, neutralizing, remediating, or disposing of, or in any way responding to or assessing the actual or alleged effects of, "asbestos" by any insured or by any other person or entity; or
 - c. Claim, "suit", demand, judgment, obligation, or request to investigate which would not have occurred, in whole or in part, but for the actual or alleged presence of or exposure to "asbestos".

This exclusion applies regardless of who manufactured, produced, installed, used, owned, sold, distributed, handled, stored or controlled the "asbestos".

B. The following definitions are added to the Definitions section:

1. "Asbestos" means any type or form of asbestos, asbestos fibers, asbestos products, or asbestos materials, including any products, goods, or materials containing asbestos or asbestos fibers, products or materials and any gases, vapors, scents or by-products produced or released by asbestos.
2. "Reduction in value" means any claim, demand or "suit" that alleges diminution, impairment or devaluation of tangible property.

All other terms and conditions of this policy remain unchanged.

COMMUNITY ASSOCIATION DIRECTORS & OFFICERS

CLAIM REPORTING INSTRUCTIONS

HOW TO REPORT A CLAIM

Report all claims, in writing, directly to Berkley Program Specialists at the following e-mail address – claims59@berkley-ps.com. Claims may also be reported by telephone:

Berkley Program Specialist
Claims Department
Phone: (888) 417-9882
Email: claims59@berkley-ps.com

Include a complete notice of loss (ACORD Notice of Loss form or equivalent) that provides the following information:

1. Insured Name
2. Policy Number
3. Date of Loss
4. Location Address
5. Claimant's Name
6. Description of the Loss

In addition,

- Attach a copy of the Policy to the email.
- Attach all other pertinent documents and/or photos

You will receive an acknowledgement of the claim from Berkley Program Specialists within 72 hours of receipt.

If you receive legal correspondence or documents regarding an action against you, immediate notification to the carrier is required. The carrier will review for coverage prior to accepting the defense of any litigation. As a result, you may be asked by the carrier to engage personal counsel to protect your interests until such time as coverage is accepted.

Claims reported by e-mail will receive a brief acknowledgement via e-mail within 2 working days. Coverage decisions will be issued as quickly as possible, and a Reservation of Rights will be issued if Berkley Program Specialists requires additional time to determine coverage.

Cyber Claim and Incident Reporting

Any Cyber incident which may trigger coverage under this policy should be reported immediately to the Claims Department using the following information below:

Starnet Hotline Email address: starnet_claims@moxfive.com

Starnet Hotline Phone Number: 1-833-762-1833



A Berkley Company
 Domicile Office: 11201 Douglas Avenue, Urbandale, IA 50322
 Main Administrative Office: 475 Steamboat Road, Greenwich, CT 06830
 Underwriting Office: 1250 Diehl Road, Suite 200, Naperville, IL 60563 Telephone: (866) 893-3922

**PREFERRED PLUS DIRECTORS & OFFICERS POLICY
 DECLARATIONS PAGE**

Policy Number: QDO0016709-00

Policy Form Number: BPS DO 76 00 (06 23)

Item 1. **Name of Organization:**
 Confluence at Two Rivers Community Association Inc.

Mailing Address:
 28 2nd St #213
 City, State, Zip Code:
 Edwards, CO 81632

Item 2. **Policy Period:** From 12/4/2025 To 12/4/2026
(Month, Day, Year) (Month, Day, Year)
 (Both dates at 12:01 a.m. Standard Time at the address of the **Organization** as stated in Item 1.)

Item 3. (a) Limit of Liability for each **Policy Year:** \$1,000,000
(b) FLSA Defense Sublimit of Liability: \$150,000 — This limit is part of and not in addition to the Limit of Liability provided for in 3(a).

Item 4. Retentions:
 Insuring Agreement A: **\$0** Each **Claim**
 Insuring Agreement B and/or C: **\$2,500** Each **Claim**

Item 5. Premium: \$687.00 Annual Taxes/Surcharges: \$0.00 Annual Fees: \$0.00

Item 6. Endorsements Attached:
 See Schedule of Forms and Endorsements

Item 7. Notices: All notices required to be given to the **Insurer** under this policy shall be addressed to:
*Berkley Program Specialists,
 1250 E Diehl Rd #200,
 Naperville, IL 60563*

Item 8. Prior & Pending Litigation Date:
 12/4/2025

These Declarations along with the completed and signed Application and Preferred Plus Directors & Officers Policy shall constitute the contract between the **Insureds** and the **Insurer**.

THIS IS A CLAIMS MADE POLICY. READ IT CAREFULLY.



A Berkley Company

Domicile Office: 11201 Douglas Avenue, Urbandale, IA 50322

Main Administrative Office: 475 Steamboat Road, Greenwich, CT 06830

Underwriting Office: 1250 Diehl Road, Suite 200, Naperville, IL 60563 Telephone: (866) 893-3922

SCHEDULE OF FORMS AND ENDORSEMENTS

Reporting Claims	Directors & Officers Claim Reporting Instructions
Reporting Cyber Claims	Cyber Claim and Incident Reporting
BPS DO 76 00 (06 23)	Preferred Plus Directors & Officers Policy Declarations Page
BPS DO 76 03 (06 23)	Schedule of Forms and Endorsements
BPS DO 76 01 (06 23)	Preferred Plus Directors & Officers Policy Table of Contents
BPS DO 76 02 (06 23)	Preferred Plus Directors & Officers Policy
BPS DO 76 05 (06 23)	Absence of Replacement Coverage
BPD DO 76 27 (06 23)	Cap on Losses from Certified Acts of Terrorism
BPS DO 78 00 PN (06 23)	Policyholder Notice - U.S. Treasury Department's OFAC Advisory Notice
BPS DO 78 01 PN (06 23)	Policyholder Disclosure Notice of Terrorism Insurance Coverage
BPS DO 77 00 CO (06 23)	Colorado Amendatory Endorsement
BPS DO 77 01 CO (06 23)	Colorado Disclosure Form - Claims Made Policy
BPS DO 76 22 (06 23)	Commercial Cyber Data Breach Coverage

PREFERRED PLUS
DIRECTORS & OFFICERS POLICY

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**PREFERRED PLUS
DIRECTORS & OFFICERS POLICY**

NOTICE: THIS IS A CLAIMS-MADE POLICY. THIS POLICY COVERS ONLY CLAIMS FIRST MADE AGAINST INSURED DURING THE POLICY PERIOD OR THE AUTOMATIC DISCOVERY PERIOD, OR THE PURCHASED DISCOVERY PERIOD, IF APPLICABLE, AND REPORTED IN WRITING TO THE INSURER AS SOON AS PRACTICABLE BUT IN NO EVENT LATER THAN 90 DAYS AFTER THE END OF THE POLICY PERIOD. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the company shown in the Declarations (a stock insurance company, hereinafter called the **Insurer**), including the statements made in the **Application** and subject to all terms, conditions and limitations of this Policy, the **Insured** and **Insurer** agree:

Section I. Insuring Agreements

- A.** If during the **Policy Period** or the **Discovery Period** any **Claim** to which this Policy applies is first made against any **Insured Persons** for a **Wrongful Act**, the **Insurer** shall pay on behalf of the **Insured Persons, Loss** and **Costs of Defense** resulting from such **Claim**, except for any **Loss** and **Costs of Defense** which the **Organization** or any **Subsidiary** actually pays as indemnification.
- B.** If during the **Policy Period** or the **Discovery Period** any **Claim** to which this Policy applies is first made against any **Insured Persons** for a **Wrongful Act**, the **Insurer** shall pay on behalf of the **Organization** or any **Subsidiary, Loss** and **Costs of Defense** resulting from such **Claim**, but only to the extent the **Organization** or any **Subsidiary** is required or permitted by law to indemnify the **Insured Persons**.
- C.** If during the **Policy Period** or the **Discovery Period** any **Claim** to which this Policy applies is first made against the **Organization**, any **Subsidiary**, or the **Property Manager** for a **Wrongful Act**, the **Insurer** shall pay on behalf of the **Organization**, any **Subsidiary**, or the **Property Manager, Loss** and **Costs of Defense** resulting from such **Claim**.

The **Insurer** has the right and duty to defend any **Claim** to which this insurance applies, even if the allegations of such **Claim** are groundless, false or fraudulent.

Section II. Discovery Period

- A.** If this Policy is not renewed or is cancelled by the **Insurer**, for any reason other than non-payment of premium, then without the requirement of any additional premium, the **Organization** shall receive an automatic ninety (90) day extension of the coverage granted by this Policy with respect to any **Claim** first made against any **Insured** during this extended coverage, but only with respect to **Wrongful Acts** committed prior to the end of the **Policy Period**. This extended coverage shall be referred to as the **Automatic Discovery Period**. In addition, if prior to the end of the **Automatic Discovery Period**, the **Organization** pays the **Insurer** an additional amount equal to forty (40%), seventy-five (75%), or one hundred (100%) percent of the annual premium of this Policy, the **Organization** shall receive an extension of the coverage granted by this Policy for an additional twelve (12), twenty-four (24), or thirty-six (36) months respectively from the end of the **Automatic Discovery Period** with respect to any **Claim** first made against any **Insured** during this extended coverage, but only with respect to **Wrongful Acts** committed prior to the end of the **Policy Period**. This extended coverage shall be referred to as the **Discovery Period**. The **Organization** shall have no right to purchase this **Discovery Period** at any later date or to elect more than one **Discovery Period**.
- B.** If this Policy is not renewed or is cancelled by the **Organization**, and if no later than sixty (60) days after the end of the **Policy Period** the **Organization** pays the **Insurer** an additional amount equal to forty (40%), seventy-five (75%), or one hundred (100%) percent of the annual premium of this Policy, the **Organization** shall receive a **Discovery Period** for an additional twelve (12), twenty-four (24), or thirty-

six (36) months respectively from the end of the **Policy Period**. The **Organization** shall have no right to purchase this **Discovery Period** at any later date or to elect more than one **Discovery Period**.

- C. The fact that this Policy may be extended by virtue of the **Automatic Discovery Period** or **Discovery Period** shall not in any way increase the Limit of Liability stated in Item 3 of the Declarations. For purposes of the Limit of Liability, the **Automatic Discovery Period** and the **Discovery Period** is considered to be part of and not in addition to the last **Policy Year**.

Section III. Definitions

- A. "**Application**" shall mean all written materials and information, including all signed applications and any materials attached thereto or incorporated therein, submitted by or on behalf of the **Insureds** to the **Insurer** in connection with the underwriting of this Policy. The **Application** is deemed attached to and incorporated into this Policy.

- B. "**Automatic Discovery Period**" shall mean, as discussed in Section II. Discovery Period, Paragraph A., the automatic ninety (90) day extension of the coverage granted by the Policy with respect to any **Claim** first made against any **Insured** during this extended coverage, but only with respect to **Wrongful Acts** committed prior to the end of the **Policy Period**.

- C. "**Claim**" shall mean:

- (1) a written demand for monetary relief made against any **Insured**;
- (2) a civil proceeding, including any appeals therefrom made against any **Insured** seeking monetary or non-monetary (including injunctive) relief commenced by service of a complaint or similar pleading;
- (3) a criminal proceeding, including any appeals therefrom made against any **Insured** commenced by the return of an indictment or the filing of notice of charge or similar document; or
- (4) a formal administrative proceeding, including any proceeding before the Equal Employment Opportunity Commission (EEOC) or any similar governmental body, made against any **Insured** commenced by the receipt of charges, formal investigative order, service of summons or similar document.

- D. "**Claimant**" shall mean:

- (1) any past, present, and future **Insured Persons** or applicants for employment with the **Organization** or any **Subsidiary**;
- (2) a government entity or agency, including but not limited to the Equal Employment Opportunity Commission (EEOC) or any similar governmental body, when acting on behalf of or for the benefit of any individual in (1) above; or
- (3) all persons who were, now are, or shall be independent contractors, but only to the extent such individuals perform work or services for or on behalf of the **Organization** or any **Subsidiary** and only to the extent such individuals are indemnified by the **Organization** or any **Subsidiary**.

It is further understood and agreed that **Claimant** shall not include any employee of any **Property Manager**.

- E. "**Construction Defect(s)**" shall mean any actual or alleged defective, faulty or delayed construction or any other matter constituting a construction defect under applicable law, whether common law or statutory, regardless of whether it results from:

- (1) defective or incorrect architectural plans or other designs;

- (2) defective or improper soil testing;
- (3) defective, inadequate or insufficient protection from subsoil or earth movement or subsidence;
- (4) construction, manufacture or assembly of any tangible property;
- (5) the failure to provide or pay for any construction-related goods or services; or
- (6) the supervision or management of any construction-related activities.

F. "Costs of Defense" shall mean reasonable and necessary legal fees, costs and expenses incurred in the investigation or defense of any **Claim**, including the costs of any appeal or appeal bond, attachment bond or similar bond (but without any obligation on the part of the **Insurer** to apply for or furnish such bonds); provided, however, **Costs of Defense** shall not include: (1) salaries, wages, overhead or benefit expenses associated with any **Insured Persons**, and (2) any amounts incurred in defense of any **Claim** which any other insurer has a duty to defend, regardless of whether or not such other insurer undertakes such duty.

G. "Discovery Period" shall mean, as discussed in Section II. Discovery Period, Paragraph A., an additional twelve (12), twenty-four (24), or thirty-six (36) months respectively from the end of the **Automatic Discovery Period** with respect to any **Claim** first made against any **Insured** during this extended coverage, but only with respect to **Wrongful Acts** committed prior to the end of the **Policy Period**, which extended coverage can be purchased by the **Organization**.

H. "Employment Practices Wrongful Act" shall mean any of the following acts related to employment, but only if alleged by or on behalf of a **Claimant**:

- (1) wrongful dismissal, discharge or termination of employment, whether actual or constructive;
- (2) misrepresentation;
- (3) violation of employment laws;
- (4) sexual or other harassment in the workplace;
- (5) discrimination; whether based upon race, sex, age, national origin, religion, sexual orientation, disability (physical or mental), or based upon any other ground prohibited under applicable state or federal law;
- (6) wrongful failure to employ or promote;
- (7) wrongful discipline;
- (8) wrongful deprivation of career opportunity including a wrongful failure to hire or promote;
- (9) failure to grant tenure;
- (10) negligent employee evaluation;
- (11) retaliation;
- (12) failure to provide adequate workplace or employment policies or procedures;
- (13) defamation (including libel and slander);
- (14) invasion of privacy;
- (15) wrongful demotion;
- (16) negligent reassignment;
- (17) violation of any federal, state or local civil rights laws;
- (18) negligent hiring;
- (19) negligent supervision;
- (20) negligent training;
- (21) negligent retention; or
- (22) acts described in (1) through (21) above arising from the use of the **Organization's** or **Subsidiary's** Internet, e-mail, telecommunication or similar systems, including the failure to provide and enforce adequate policies and procedures relating to such use of the **Organization's** or **Subsidiary's** Internet, e-mail, telecommunication or similar systems.

I. "Financial Insolvency" shall mean the **Organization** becoming a Debtor in Possession, or the appointment of a receiver, conservator, liquidator, trustee, rehabilitator or similar official to control, supervise, manage or liquidate the **Organization**.

J. "Fungi" shall mean any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents, or byproducts produced or released by fungi.

- K. "Insured"** shall mean:
- (1) the **Organization**;
 - (2) any **Subsidiary**;
 - (3) in the event of **Financial Insolvency**, the resulting Debtor in Possession (or foreign equivalent status), if any;
 - (4) all **Insured Persons**; and
 - (5) any **Property Manager**, but only if such **Property Manager** is acting pursuant to the written authority granted by the **Organization** or on behalf of and at the direction of the **Organization** or any **Subsidiary**.
- L. "Insured Persons"** shall mean all persons who were, now are, or shall be directors, trustees, officers, employees, leased employees, temporary or seasonal employees, volunteers or staff members of the **Organization** or any **Subsidiary**, including any executive board members and committee members, whether salaried or not. It shall also mean all persons who were, now are, or shall be directors, trustees, officers, employees, leased employees, temporary or seasonal employees, volunteers or staff members of any **Property Manager**, but only if such persons are acting within the scope of their employment with the **Property Manager** and on behalf of the **Organization** or any **Subsidiary**.
- M. "Loss"** shall mean settlements, judgments, pre-judgment and post-judgment interest, front and back pay, compensatory damages, punitive or exemplary damages, the multiple portion of any multiplied damage award, and subject to the provisions of Section V. and VI., **Costs of Defense** incurred by the **Insured**. **Loss** shall not include:
- (1) criminal or civil fines or penalties imposed by law or taxes;
 - (2) the value of perquisites, deferred compensation or any other type of compensation earned in the course of employment or the equivalent value thereof; and
 - (3) any amounts which may be deemed uninsurable under the law pursuant to which this Policy shall be construed.
- It is understood and agreed that the enforceability of the foregoing coverage shall be governed by such applicable law which most favors coverage for punitive or exemplary damages or the multiple portion of any multiplied damage award.
- N. "Organization"** shall mean the entity named in Item 1 of the Declarations.
- O. "Policy Year"** shall mean the period of one year following the effective date and hour of this Policy or the period of one year following any anniversary date thereof falling within the **Policy Period**; or if the time between the effective date or any anniversary date and the termination of this Policy is less than one year, such lesser period. Any **Discovery Period** or **Automatic Discovery Period** shall be considered part of and not in addition to the last **Policy Year**.
- P. "Policy Period"** shall mean the period from the inception of this Policy to the expiration date stated in Item 2 of the Declarations or its earlier termination, if applicable.
- Q. "Property Manager"** shall mean any entity providing real estate property management services to the **Organization** or any **Subsidiary** pursuant to a written contract.
- R. "Related Wrongful Acts"** shall mean **Wrongful Acts** which are causally connected by reason of any common fact, circumstance, situation, transaction, casualty, event or decision.

S. "Subsidiary" shall mean:

- (1) any entity which qualifies as a not-for-profit organization under the Internal Revenue Code, other than a political committee organized pursuant to Section 432 of the Federal Election Campaign Act of 1971 (and amendments thereto), and for which the **Organization** has or controls the right to elect or appoint more than fifty percent (50%) of the Board of Directors or other governing body of such entity as of the inception date of this Policy;
- (2) any similar entity which was created or acquired by the **Organization** after the inception date of this Policy, if the entity's total assets do not exceed thirty-five percent (35%) of the total consolidated assets of the **Organization** as of the inception date of this Policy; or
- (3) any other entity added as a **Subsidiary** by written endorsement to this Policy.

Coverage shall apply to a **Subsidiary** only for **Wrongful Acts** allegedly committed during the time such entity qualified as a **Subsidiary**.

T. "Wrongful Act" shall mean:

- (1) any of the following by the **Organization**, and/or any **Subsidiary**, and/or any **Insured Persons** acting in their capacity with the **Organization** or a **Subsidiary**:
 - (a) actual or alleged error, misstatement, misleading statement, act or omission, neglect or breach of duty;
 - (b) **Employment Practices Wrongful Act**;
- (2) any matter claimed against any **Insured Persons** solely by reason of their status with the **Organization** or any **Subsidiary**.

Section IV. Exclusions

This Policy does not apply to any **Claim** made against any **Insured**:

- A.** brought about or contributed to by: (1) any **Insured** gaining any profit, advantage or remuneration to which they were not legally entitled; or (2) the deliberate fraudulent or criminal acts of any **Insured**; however, this exclusion shall not apply unless it is finally adjudicated such conduct in fact occurred, nor shall it apply to coverage provided under Insuring Agreement I.B.;
- B.** to the extent it is insured in whole or in part by any other valid and collectible policy or policies, (except with respect to any excess beyond the amount or amounts of coverage under such other policy or policies), whether such other policy or policies are stated to be primary, contributory, excess, contingent, or otherwise;
- C.** based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving:
 - (1) any **Wrongful Act** or **Related Wrongful Act** or any fact, circumstance or situation which has been the subject of any notice or **Claim** given under any other policy of which this Policy is a renewal or replacement;
 - (2) any **Wrongful Act** or any circumstance known by any **Insured Person** prior to the date stated in Item 8 of the Declarations which would indicate the probability of such **Claim** being made, provided, however, this exclusion shall only apply to the **Organization**, its **Subsidiaries** and those **Insured Persons** having such knowledge; or
 - (3) any civil, criminal, administrative or investigative proceeding involving any **Insured** pending

as of or prior to the date stated in Item 8 of the Declarations, or any fact, circumstance or situation underlying or alleged in such proceeding;

- D. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving: (1) bodily injury, sickness, disease or death of any person, assault or battery; (2) damage to or destruction of any tangible property or the loss of use of any tangible property; or (3) humiliation, mental anguish, emotional distress, invasion of privacy, wrongful entry, trespassing, eviction, false arrest, false imprisonment, malicious prosecution, abuse of process, libel or slander; provided, however, that part (3) of this exclusion shall not apply to any **Claim** for an **Employment Practices Wrongful Act**;
- E. for any actual or alleged violation by any **Insured** of the Employee Retirement Income Security Act of 1974, 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 or any rules or regulations promulgated under these acts or any similar provisions of any federal, state, local or foreign law, except a **Claim** alleging retaliation for the exercise of any rights under such laws;
- F. for any **Wrongful Act** of any **Insured Persons** in their respective capacity as a director, officer, trustee, or equivalent position of an entity other than the **Organization** or any **Subsidiary**;
- G. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving actual or alleged seepage, pollution, radiation, emission, contamination or irritant of any kind, including but not limited to smoke, vapor, dust, fibers, mold, spores, **fungi**, germs, soot, fumes, acids, alkalis, asbestos, chemicals or waste of any kind, provided, however, this exclusion shall not apply to coverage provided under Insuring Agreement 1.A.;
- H. by, or for the benefit of, or at the behest of the **Organization** or any **Subsidiary** or any entity which controls, is controlled by, or is under common control with the **Organization** or any **Subsidiary**, or any person or entity which succeeds to the interests of the **Organization** or any **Subsidiary**, provided, however, this exclusion shall not apply to any **Claim** brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner or similar official of the **Organization**, if any, in the event of **Financial Insolvency**;
- I. other than **Costs of Defense**:
 - (1) for any obligation of the **Organization** or any **Subsidiary**, as a result of a **Claim**, seeking relief or redress in any form other than money damages, including but not limited to any obligations of the **Organization** or any **Subsidiary** to modify any building or property;
 - (2) for any obligation of the **Organization** or any **Subsidiary** to pay compensation earned by any **Insured Person** in the course of employment, but not paid by the **Organization** or any **Subsidiary**, including any unpaid salary, bonus, wages, severance pay, retirement benefits, vacation days or sick days, provided, however, this exclusion shall not apply to front pay and back pay;
 - (3) for any actual or alleged violation by any **Insured** of the Fair Labor Standards Act or any similar state or local law, provided, however, this exclusion shall not apply to the Equal Pay Act. **Costs of Defense** provided pursuant to this section, I.(3), shall be subject to the FLSA Defense Sublimit of Liability stated in Item 3 of the Declarations, if any; or
 - (4) for any actual or alleged liability of any **Insured** under any contract or agreement, express or implied, written or oral; provided, however this exclusion shall not apply to employment related obligations which would have attached absent such contract or agreement;
- J. for any obligations under a worker's compensation, disability benefits, insurance benefits or unemployment compensation law, or any similar law; provided, however this exclusion shall not apply to a **Claim** for an **Employment Practices Wrongful Act** involving retaliation with regard to benefits paid or payable;

- K. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving:
 - (1) actual, alleged or threatened:
 - (a) inhalation of, ingestion of, contact with, or exposure to any **Fungi** or bacteria; or
 - (b) existence of or presence of any **Fungi** or bacteria on or within a building or structure including its contents, regardless of whether any other cause, event, material, or product contributed concurrently or in any sequence to any injury or damage; or
 - (2) any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, disposing of, or in any way responding to, or assessing the effects of **Fungi** or bacteria by any **Insured** or by any other person or entity;
- L. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving actual or alleged **Construction Defect(s)**;
- M. based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged liability of an **Insured**, in whole or in part, in the capacity as a builder or developer, or in the capacity of a sponsor of the **Organization**, or of an **Insured** affiliated with such a builder, developer or sponsor, and which is related to actual or alleged misconduct on the part of such builder, developer or sponsor, including but not limited to actual or alleged conflict of interest, self-dealing, or disputes concerning conversion, construction or development;

With respect to this section of the Policy, no fact pertaining to or conduct by any **Insured Person** shall be imputed to any other **Insured Person**; and only facts pertaining to or conduct by any past, present, or future Executive Director, President, or Chairman of the **Organization** shall be imputed to the **Organization** or any **Subsidiary** to determine if coverage is available.

Section V. Limits of Liability and Retention

- A. The **Insurer** shall be liable to pay one hundred percent (100%) of **Loss** to which this insurance applies in excess of the Retention stated in Item 4 of the Declarations. The **Insurer's** maximum Limit of Liability for the aggregate amount of **Loss** resulting from all **Claims** deemed to have been made in a **Policy Year** shall be shown in Item 3 of the Declarations. The **Insured** shall be solely responsible to pay any and all **Loss** within the Retention. Under no circumstances shall the **Insurer** be required to pay any **Loss** within the Retention.
- B. One Retention shall apply to each and every **Claim**. More than one **Claim** involving the same **Wrongful Act** or **Related Wrongful Acts** of one or more **Insureds** shall be considered a single **Claim**, and only one Retention shall be applicable to such single **Claim**. All such **Claims**, constituting a single **Claim**, shall be deemed to have been made on the earlier of the following dates: (1) the earliest date on which any such **Claim** was first made; or (2) the earliest date on which any such **Wrongful Act** or **Related Wrongful Act** was reported under this Policy or any other policy providing similar coverage.
- C. **Costs of Defense** incurred by the **Insurer** shall be in addition to the Limit of Liability, and such **Costs of Defense** shall not be subject to the Retention amount.
- D. With respect to all **Claims** deemed to have been made in a **Policy Year**, should the Limit of Liability be exhausted by payment of **Loss** resulting from one or more such **Claims**, the **Insurer's** duty to defend shall cease and any and all obligations of the **Insurer** hereunder shall be deemed to be completely fulfilled and extinguished and the **Insurer** shall have no further obligations.

- E. For the purpose of applying the Retention, **Loss** applicable to Insuring Agreement I.B. includes that for which indemnification is legally permissible, regardless of whether actual indemnification is granted. The certificate of incorporation, charter or other organizational document of the **Organization**, including by-laws and resolutions, shall be deemed to require indemnification and advancement of **Loss** to the **Insured Persons** to the fullest extent permitted by law.

Section VI. Costs of Defense and Settlements

- A. The **Insureds** shall not incur **Costs of Defense**, or admit liability, offer to settle, or agree to any settlement in connection with any **Claim** without the express written consent of the **Insurer**, which consent shall not be unreasonably withheld. The **Insureds** shall provide the **Insurer** with full cooperation and all information and particulars it may reasonably request in order to reach a decision as to such consent. Any **Loss** resulting from any admission of liability, agreement to settle, or **Costs of Defense** incurred prior to the **Insurer's** consent shall not be covered hereunder.
- B. The **Insurer** has the right to investigate and settle any **Claim** as it deems expedient. The **Insurer** may, with the written consent of the **Insured**, make any settlement of a **Claim** which the **Insurer** deems reasonable. If the **Insured** withholds its written consent to settlement of a **Claim** recommended in writing by the **Insurer**, the **Insurer's** liability will be limited to:
- (1) the amount of Loss in excess of the retention (if any) which the **Insurer** would have paid to settle the **Claim** had the **Insured** consented to the recommended settlement; and
 - (2) the **Costs of Defense** covered by the Policy and incurred as of the date the **Insurer** recommended the settlement in writing to the **Insured**.

Upon failing to provide written consent to a settlement that the **Insurer** recommends in writing, the **Insured** shall, at its sole expense, assume all further responsibility for the **Costs of Defense** incurred after the date the **Insurer** recommended the settlement to the **Insured** in writing, including all additional costs associated with the investigation, defense and/or settlement of the **Claim**.

Section VII. Notice of Claim

- A. The **Insureds** shall, as a condition precedent to their rights under this Policy, give the **Insurer** notice in writing of any **Claim** made during the **Policy Period**. Such notice shall be given as soon as practicable after the date a Board Member or an employee of the **Property Manager** has knowledge of the **Claim**, and in no event later than ninety (90) days after the end of the **Policy Period**.
- B. If during the **Policy Period** or **Discovery Period**, any **Insured** first becomes aware of a **Wrongful Act** and gives notice to the **Insurer** of: (1) the **Wrongful Act**; (2) the injury or damage which has or may result therefrom; and (3) the circumstances by which the **Insured** first became aware thereof; then any **Claim** arising out of such **Wrongful Act** which is subsequently made against the **Insured** shall be deemed to have been made at the time the **Insurer** received such written notice from the **Insured**.
- C. In addition to furnishing the notice as provided in Section VII A or B, the **Insured** shall, as soon as practicable, provide the **Insurer** with copies of reports, investigations, pleadings and other documents in connection therewith, and shall provide all information, assistance and cooperation which the **Insurer** reasonably requests and do nothing to prejudice the **Insurer's** position or its potential or actual rights of recovery.

Section VIII. Coverage Extensions

A. Spousal/Domestic Partner Provision

The coverage provided by this Policy shall also apply to the lawful spouse or "Domestic Partner" of any **Insured Person**, but only for **Claims** arising out of any actual or alleged **Wrongful Acts** of any **Insured Person**. The term "Domestic Partner" shall mean any natural person qualifying as a

domestic partner under the provisions of any applicable federal, state or local law.

B. Worldwide Provision

The coverage provided under this Policy shall apply worldwide. The term **Insured Persons** is deemed to include individuals who serve in equivalent positions in foreign **Subsidiaries**.

C. Estates and Legal Representatives

The coverage provided by this Policy shall also apply to the estates, heirs, legal representatives, or assigns of any **Insured Persons** in the event of their death, incapacity or bankruptcy, but only for **Claims** arising out of any actual or alleged **Wrongful Acts** of any **Insured Persons**.

Section IX. General Conditions

A. Cancellation or Non-Renewal

- (1) This Policy may be cancelled by the **Organization** at any time by written notice to the **Insurer**. In the event the **Organization** cancels this Policy for reasons other than the downgrade of the **Insurer's** rating by A.M. Best, the **Insurer** shall retain the customary short rate portion of the premium. However, if the **Organization** cancels the Policy due to a downgrade of the **Insurer's** rating to below [A-] by A.M. Best, the **Insurer** shall refund any unearned premium on a pro rata basis. Payment of any unearned premium by the **Insurer** shall not be a condition precedent of the effectiveness of cancellation but such payment shall be made as soon as practicable.
- (2) This Policy will only be cancelled by the **Insurer** if the **Organization** does not pay the premium when due.
- (3) If the **Insurer** elects not to renew this Policy, the **Insurer** shall provide the **Organization** with at least sixty (60) days advance notice thereof.

B. Application

It is agreed the particulars and statements contained in the **Application** submitted to the **Insurer** (and any material submitted therewith) are the representations of the **Insured** and are to be considered as incorporated in and constituting part of this Policy. It is also agreed this Policy is issued in reliance upon the truth of such representations. However, coverage shall not be excluded as a result of any untrue statement in the **Application**, except as to the **Organization**, its **Subsidiaries**, and any **Insured Person** making such untrue statement or having knowledge of its falsity.

In no event shall Insuring Agreement I.A. of this Policy be rescinded by the **Insurer**.

C. Order of Payments

In the event of **Loss** arising from a covered **Claim** for which payment is due under the provisions of this Policy, the **Insurer** shall first, pay **Loss** for which coverage is provided under Insuring Agreement I.A. of this Policy; and thereafter with respect to whatever remaining amount of the Limit of Liability is available after such payment, pay such other **Loss** for which coverage is provided under any other applicable Insuring Agreements in Section I of this Policy.

D. Merger or Acquisition

If, during the **Policy Period**, the **Organization** acquires the assets of another entity, by merger or otherwise, and the acquired assets of such other entity exceed thirty-five percent (35%) of the

assets of the **Organization** as of the inception date of the Policy, written notice thereof shall be given to the **Insurer** as soon as practicable, but in no event later than ninety (90) days from the effective date of the transaction, together with such information as the **Insurer** may request. Premium adjustment and coverage revisions shall be effected as may be required by the **Insurer**.

E. Conversion to Run-Off Coverage

If prior to the end of the **Policy Period**, the **Organization** merges into another organization and the **Organization** is not the surviving entity, another organization or person acquires the right to elect or appoint more than fifty percent (50%) of the Board of Directors or other governing body of the **Organization**, or the **Organization** ceases to qualify as a not-for-profit organization under any federal, provincial and territorial legislation and/or the Internal Revenue Code (such events hereinafter referred to as **Transaction**), then:

- (1) the **Organization** must give written notice of such **Transaction** to the **Insurer** within thirty (30) days after the effective date of such **Transaction**, and provide the **Insurer** with such information as the **Insurer** may deem necessary; and
- (2) this Policy, including the **Discovery Period** if elected, shall apply, but only with respect to any **Wrongful Act** committed prior to the effective date of such **Transaction**.

F. Action Against the Insurer

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

G. Subrogation

In the event of payment under this Policy, the **Insurer** shall be subrogated to all the **Insureds'** rights of recovery. The **Insureds** shall do everything necessary to secure such rights, including the execution of such documents necessary to enable the **Insurer** to effectively bring suit in the name of any **Insured**. In no event, however, shall the **Insurer** exercise its rights to subrogation against an **Insured Person** under this Policy unless, such **Insured Person**:

- (1) has been convicted of a deliberate criminal act, or
- (2) has been determined by a final adjudication adverse to the **Insured Person** to have committed a deliberate fraudulent act, or to have obtained any profit, advantage or remuneration to which such **Insured Person** was not legally entitled.

In the event the **Insurer** shall for any reason pay indemnifiable **Loss** on behalf of an **Insured Person**, the **Insurer** shall have the contractual right hereunder to recover from the **Organization** or any **Subsidiary** the amount of such **Loss** equal to the amount of the Retention not satisfied by the **Organization** or any **Subsidiary** and shall be subrogated to rights of the **Insured Persons** hereunder.

H. Conformity to Law

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

I. Assignment

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

J. Organization Represents Insured

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

K. Entire Agreement

By acceptance of this Policy, the **Insured** and the **Insurer** agree that this Policy (including the **Application** submitted to the **Insurer** and any materials submitted therewith) and any written endorsements attached hereto constitute the entire agreement between the parties.

In witness whereof the **Insurer** has caused this Policy to be signed by its President and Secretary and countersigned, if required, on the Declarations page by a duly authorized agent of the **Insurer**.



President



Secretary



A Berkley Company

Domicile Office: 11201 Douglas Avenue, Urbandale, IA 50322

Main Administrative Office: 475 Steamboat Road, Greenwich, CT 06830

Underwriting Office: 1250 Diehl Road, Suite 200, Naperville, IL 60563 Telephone: (866) 893-3922

ABSENCE OF REPLACEMENT COVERAGE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

It is hereby understood and agreed that that Section VIII of the Policy is hereby amended as follows:

The following is added to Section VIII. of the Policy:

D. Absence of Replacement Coverage Reporting Provision

If the **Organization** shall cancel or non-renew this Policy for a reason other than being sold, acquired or bankrupt, each **Insured Person** who was not actively serving on behalf of the **Organization** or any **Subsidiary** at the time of the cancellation or non-renewal, shall be provided an unlimited extension of time to report **Claim(s)** first made against the **Insured Person** after the effective date of such cancellation or non-renewal.

However, this extension of time to report **Claim(s)** shall only be afforded in the event that the **Wrongful Act** was committed before the date of cancellation or non-renewal, and no Directors and Officers Liability Policy, or policy providing essentially the same type of coverage, or extended reporting period, is in effect at the time the **Claim** is made.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

DIRECTORS & OFFICERS INSURANCE POLICY

- A. If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:
1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
 2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
- B. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under this Coverage Part.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.

**POLICYHOLDER NOTICE U.S. TREASURY DEPARTMENT'S
OFFICE OF FOREIGN ASSETS CONTROL (OFAC) ADVISORY NOTICE**

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC.

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of national emergency. OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations and narcotics traffickers as Specially Designated Nationals. This list can be located on the United States Treasury's web site: <http://www.treasury.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments or premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM INSURANCE COVERAGE**

Coverage for acts of terrorism, as defined in the Terrorism Risk Insurance Act, as amended, (the “Act”), is included in your policy. As defined in Section 102(1) of the Act: The term “act of terrorism” means any act that is certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Act. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Act contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurers’ liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism as defined in the Act is \$0, and does not include any charges for the portion of losses covered by the United States government under the Act.



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COLORADO AMENDATORY ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

In compliance with the insurance regulations of the state of Colorado, the following Section of the Policy is amended as follows:

Section IX. General Conditions

It is understood and agreed that the following is added to Section IX: Upon request by the **Organization** and within thirty (30) days thereafter, the **Insurer** shall furnish sufficient information relating to closed or paid **Claims, Claims** for which the **Insurer** has established reserves, and notices of **Wrongful Acts** received by the **Insurer** which may give rise to **Claims**, to allow the **Insured** to determine the amount of aggregate coverage remaining under this Policy.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above-mentioned Policy other than as above stated.

COLORADO DISCLOSURE FORM CLAIMS-MADE POLICY

IMPORTANT NOTICE TO POLICYHOLDER

THIS DISCLOSURE FORM IS NOT YOUR POLICY. IT DESCRIBES SOME OF THE MAJOR FEATURES OF OUR CLAIMS-MADE POLICY FORM. READ YOUR POLICY CAREFULLY TO DETERMINE RIGHTS, DUTIES, AND WHAT IS AND IS NOT COVERED. ONLY THE PROVISIONS OF YOUR POLICY DETERMINE THE SCOPE OF YOUR INSURANCE PROTECTION.

DEFINITIONS

1. "Claims-made coverage" means an insurance policy that provides coverage only if a claim is made during the policy period or any applicable extended reporting period. A claim made during the policy period could be charged against a claims-made policy even if the injury or loss occurred many years prior to the policy period. If a claims-made policy has a retroactive date, an occurrence prior to that date is not covered.
2. "Extended reporting period" means a period allowing for making claims after expiration of a claims-made policy. This is also known as a "tail".
3. "Occurrence coverage" means an insurance policy that provides liability coverage only for injury or damage that occurs during the policy terms, regardless of when the claim is actually made. A claim in the current policy year could be charged against a prior policy year, or may not be covered, if it arises from an occurrence prior to the effective date.
4. "Retroactive date" means the date on a claims-made policy which denotes the commencement date of coverage under the policy.

YOUR POLICY

Your policy is a claims-made policy. It provides coverage only for injury or damage occurring after the policy retroactive date (if any) shown on your policy and the incident is reported to your insurer prior to the end of the policy period. Upon termination of your claims-made policy an extended reporting period option is available from your insurer.

There is no difference in the kind of injury or damage covered by occurrence or claims-made policies. Claims for damages may be assigned to different policy periods, depending on which type policy you have.

If you make a claim under your claims-made policy, the claim must be a demand for damages by an injured party and does not have to be in writing. Under most circumstances, a claim is considered made when it is received and recorded by you or by us. Sometimes, a claim may be deemed made at an earlier time. This can happen when another claim for the same injury or damage has already been made, or when the claim is received and recorded during an extended reporting period.

This policy provides for coverage for the Non-Profit Organization, its Subsidiaries and their Insured Persons for Loss from Wrongful Acts claimed against them up to the maximum dollar limit specified in the policy.

The principal benefits and coverages are explained in detail in your claims-made policy. Please read them carefully and consult your insurance producer about any questions you might have.

RENEWAL AND EXTENDED REPORTING PERIODS

Your claims-made policy has some unique features relating to renewal, extended reporting periods and coverage for events with long periods of potential liability exposure.

If there is a retroactive date in your policy, no event occurrence prior to that date will be covered under the policy even if reported during the policy period. It is therefore important for you to be certain that there are no gaps in your insurance coverage. These gaps can occur in several ways. Among the most common are:

1. If your switch from an occurrence policy to a claims-made policy, the retroactive date in your claims-made policy should be no later than the expiration date of the occurrence policy.
2. When replacing a claims-made policy with a claims-made policy, you should consider the following:
 - a. The retroactive date in the replacement policy should extend far enough back in time to cover events with long periods of liability exposure, or
 - b. If the retroactive date in the replacement policy does not extend far enough back in time to cover events with long periods of liability exposure, you should consider purchasing extended reporting period coverage under the old claims-made policy.
3. If you replace this claims-made policy with an occurrence policy, you may not have insurance coverage for a claim arising during the period of claims-made coverage unless you have purchased an extended reporting period under the claims-made policy. Extended reporting period coverage must be offered to you by law for at least one year after the expiration of the claims-made policy at a premium not to exceed 200% of your last policy premium.

CAREFULLY REVIEW YOUR POLICY REGARDING THE AVAILABLE EXTENDED REPORTING PERIOD COVERAGE, INCLUDING THE LENGTH OF COVERAGE, THE PRICE AND THE TIME PERIOD DURING WHICH YOU MUST PURCHASE OR ACCEPT ANY OFFER FOR EXTENDED COVERAGE.

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THIS ENDORSEMENT'S AGGREGATE LIMIT OF INSURANCE WILL BE REDUCED AND MAY BE EXHAUSTED BY PAYMENT OF THE COVERAGE PROVIDED BY THIS ENDORSEMENT, INCLUDING WITHOUT LIMITATION, PAYMENTS FOR DAMAGES, CLAIMS, CLAIM EXPENSES, REGULATORY FINES, AND LOSSES.

FOR THE AVOIDANCE OF DOUBT, CLAIM EXPENSES ARE INCLUDED WITHIN, REDUCE, AND MAY EXHAUST THE APPLICABLE LIMITS OF LIABILITY.

THIS ENDORSEMENT PROVIDES INDEPENDENT COVERAGES, TERMS, AND DEFINITIONS.

PLEASE READ THE ENTIRE ENDORSEMENT CAREFULLY

Various provisions in this **Endorsement** restrict coverage, and coverage is subject to certain conditions precedent set forth in this Endorsement. Read the entire **Endorsement** carefully to determine what is and what is not covered, and the rights and duties of the **Named Insured** and the **Company**.

Coverage	Limits of Insurance / Sublimits of Insurance
ENDORSEMENT AGGREGATE COVERAGE LIMIT OF INSURANCE	\$ 250,000
A. LIABILITY COVERAGE LIMIT (Inclusive of the following Insuring Agreements):	\$ 250,000
1. Media	
2. Network Security	
3. Data Compromise	
a. Privacy	
b. Regulatory Coverage	
Regulatory Fines (Sublimit)	\$10,000 each Regulatory Proceeding Claim
B. FIRST PARTY COVERAGE LIMIT (Inclusive of the following Insuring Agreement):	\$50,000
1. Privacy Breach	
C. PER EVENT DEDUCTIBLE	\$1,000
D. ENDORSEMENT PREMIUM	INCLUDED

ENDORSEMENT PERIOD From 12/4/2025 to 12/4/2026

At 12:01 A.M. Standard Time at the address of the **Named Insured** as stated herein.

Schedule of Insurance

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In consideration of the payment of the premium, in reliance on all information provided to the **Company**, and subject to all provisions of this **Endorsement**, the **Named Insured** and **Company** agree as follows:

SECTION I: INSURING AGREEMENTS

This Section lists the coverages that apply if indicated in the Schedule of Insurance and have a Limit of Insurance on the Schedule. If no Limit of Insurance is set forth for an Insuring Agreement in the Schedule, coverage has not been purchased for such Insuring Agreement. For coverage under this **Endorsement**, the applicable **Event** must be first **Discovered** during the **Endorsement Period** and reported to the **Company** in accordance with Section IV.A.

A. LIABILITY COVERAGE

1. MEDIA

The **Company** will pay on the **Insured's** behalf the **Damages** resulting from a **Claim** directly arising from a **Media Wrongful Event**, provided the **Media Wrongful Event** is first **Discovered** during the **Endorsement Period**.

2. NETWORK SECURITY

The **Company** will pay on the **Insured's** behalf the **Damages** resulting from a **Claim** directly arising from a **Network Security Event**, provided the **Network Security Event** is first **Discovered** during the **Endorsement Period**.

3. DATA COMPROMISE

a. PRIVACY

The **Company** will pay on the **Insured's** behalf the **Damages** resulting from a **Claim** directly arising from a **Privacy Breach Event**, provided the **Privacy Breach Event** is first **Discovered** during the **Endorsement Period**.

b. REGULATORY

The **Company** will pay on the **Insured's** behalf the **Regulatory Fines** and **Claim Expenses** resulting from a **Regulatory Proceeding Claim** directly arising from a **Privacy Breach Event**, provided the **Privacy Breach Event** is first **Discovered** during the **Endorsement Period**.

B. FIRST PARTY COVERAGE

1. PRIVACY BREACH

The **Company** will pay the **Named Insured** for **Privacy Breach Expenses** directly arising from a **Privacy Breach Event**, provided the **Privacy Breach Event** is first **Discovered** during the **Endorsement Period**.

SECTION II: LIMITS OF INSURANCE AND DEDUCTIBLE

A. LIMITS OF INSURANCE

1. ENDORSEMENT AGGREGATE COVERAGE LIMIT OF INSURANCE

The Endorsement Aggregate Coverage Limit of Insurance for the **Endorsement Period** set forth in the Schedule is the maximum aggregate limit of the **Company's** liability under

COMMERCIAL CYBER DATA BREACH COVER

all Insuring Agreements in this **Endorsement** combined, regardless of the number of **Claims**, the number of **Losses**, the number of claimants, and the number of Insuring Agreements triggered.

The Liability Coverage Limits, including sublimits, and the First Party Coverage Limits, including sublimits, listed in the Schedule are all part of, and not in addition to, the Endorsement Aggregate Coverage Limit of Insurance set forth in the Schedule.

2. LIABILITY LIMIT OF INSURANCE

If a Limit of Insurance is set forth in the Schedule under the heading “Liability Coverage Limit” for an Insuring Agreement in Section I.A. of this Endorsement, then such Limit of Insurance is the maximum limit of the **Company’s** liability for all **Damages** from all **Claims** and **Related Claims** in the aggregate under that Insuring Agreement, which amount is part of, and not in addition to, the Liability Coverage Limit and the Endorsement Aggregate Coverage Limit of Insurance for the **Endorsement Period** set forth in the Schedule.

3. FIRST PARTY COVERAGE LIMIT OF INSURANCE

If a Limit of Insurance is set forth in the Schedule under the heading “First Party Coverage Limit” for an Insuring Agreement in Section I.B. of this Endorsement, then such Limit of Insurance is the maximum limit of the **Company’s** liability for all **Loss** and **Related Losses** in the aggregate under that Insuring Agreement, which amount is part of, and not in addition to, the First Party Coverage Limit and the Endorsement Aggregate Coverage Limit of Insurance for the **Endorsement Period** set forth in the Schedule.

B. DEDUCTIBLE

1. The **Company** shall only be liable for the amount of **Damages** or **Loss** which is in excess of the applicable Deductible set forth in the Schedule. Such Deductible shall solely be the obligation of the **Named Insured**. The **Company** has no obligation to the **Named Insured** or to any other person or entity to pay all or any portion of any Deductible amount for or on behalf of the **Named Insured**.
2. For the purpose of applying the Deductible, the **Named Insured** shall pay one single Deductible amount for **Damages** and **Loss** arising from the same **Event** or **Related Events**, regardless of whether there is more than one **Claim** or **Loss** arising from the same **Event** or **Related Events**.

C. RELATED EVENTS, RELATED CLAIMS, RELATED LOSS

1. Each **Event** and all its **Related Events** shall be treated as a single **Event**.
2. Each **Claim** and all its **Related Claims** shall be treated as a single **Claim**.
3. Each **Loss** and all its **Related Losses** shall be treated as a single **Loss**.

D. ENDORSEMENT PERIODS

In no event will any **Event** or **Related Event**, **Claim** or **Related Claim**, or **Loss** or **Related Loss** constitute an **Event**, **Claim**, or **Loss** (as applicable) in more than one **Endorsement Period**.

SECTION III: DEFENSE AND SETTLEMENT

A. DUTY TO DEFEND

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1. Duty to Defend

The **Company** has the right and duty to defend any **Claim** against the **Insured** seeking **Damages** under this **Endorsement**, even if any of the allegations are groundless, false, or fraudulent. The **Company** has no duty to defend any **Claim** or pay any **Damages** for a **Claim**:

- a. Arising from an **Event** not first **Discovered** during the **Endorsement Period**;
- b. Which is not covered by this **Endorsement**; or
- c. Seeking relief not covered by this **Endorsement**.

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2. Termination of Duty to Defend

- a. The **Company's** right and duty to defend ends when the Endorsement Aggregate Coverage Limit of Insurance or applicable Limit of Insurance is exhausted by the **Company's** payments or the **Company** deposits the remaining portion of the Endorsement Aggregate Coverage Limit of Insurance or applicable Limit of Insurance with a court of competent jurisdiction.
- b. The **Company's** right and duty to defend ends when the **Company** makes any of the following determinations: (i) the **Claim** arises from an **Event** not first **Discovered** during the **Endorsement Period**, (ii) the **Claim** is not covered by this **Endorsement**, or (iii) the **Claim** seeks relief that is not covered by this **Endorsement**.

3. Selection of Counsel

The **Company** shall have the right to select and appoint counsel to defend any **Claim**. The **Insured** shall not appoint counsel to defend any **Claim** without **Approval** in advance. Any costs incurred by an **Insured** for work performed by counsel, when that counsel was not **Approved**, shall be borne by the **Insured** and shall not erode the applicable Deductible set forth in the Schedule or be recoverable under this **Endorsement**. The **Company** shall have the right to substitute its chosen counsel for any counsel previously selected by the **Insured** without **Approval** unless otherwise prohibited by applicable law.

B. SETTLEMENT

The **Company** has the right to investigate, direct the defense of, and/or settle any **Claim** as the **Company** deems expedient.

C. COMPANY'S APPROVAL REQUIRED

It is a condition precedent for coverage under this **Endorsement** that the **Insured** shall not admit any liability, make any payment, assume any obligation, incur any expense, enter into or negotiate any settlement, stipulate to any judgment or award, or dispose of any **Claim** without **Approval**.

SECTION IV: REPORTING REQUIREMENTS

A. INSURED'S DUTY TO REPORT

1. NOTICE IS A CONDITION PRECEDENT TO COVERAGE

It is a condition precedent to coverage under this **Endorsement** that if a **Knowledge Group Member** first **Discovers** during the **Endorsement Period** any **Event** (including each **Related Event**, if any), **Claim** (including each **Related Claim**, if any), **Loss** (including each **Related Loss**, if any), or **Circumstances**, an **Insured** must provide written notice to the **Company** of such **Event, Claim, Loss** or **Circumstances**, such notice to include the information set forth in Section IV. A. 2 below, and to be provided as soon as practicable, but in all cases no later than thirty (30) days after first **Discovered**.

It is a condition precedent to coverage under this **Endorsement** that if the **Company** sends written notice to the **Named Insured** that this **Endorsement** is being cancelled for non-payment of premium, the **Named Insured** must provide written notice to the **Company** of any **Event, Claim, Loss** or **Circumstances** in accordance with the prior paragraph, but in any event no later than the earlier of: (i) thirty (30) days after such **Event, Claim, Loss** or **Circumstances** is first **Discovered**, and (ii) prior to the effective date of the cancellation.

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Such notices must be sent to the **Company**. Notice to any **Vendor** (including lawyers, experts, and litigation support staff) does not constitute notice to the **Company** of an **Event**, **Claim**, **Loss** or **Circumstances** under this **Endorsement**.

2. INFORMATION TO BE INCLUDED IN NOTICES

In providing the notice under A.1, of this Section IV, each notice must include a written report with the following information:

- a. If notice is of an **Event**, then a description of the **Event**, when and how the **Knowledge Group Member** first **Discovered** the **Event**, the **Circumstances** giving rise to the **Event**, and any **Claim** or **Loss** reasonably expected to arise from that **Event**.
- b. If notice is of a **Claim**, or of an **Event** or **Circumstances** reasonably likely to give rise to a **Claim**, then a description of the **Claim**; when and how the **Knowledge Group Member** first **Discovered** the **Claim**; the names of the claimant or potential claimant, the **Impacted Individuals**, the **Impacted Entities**, and any other persons or entities involved; the specific **Third Party Liability Event** or regulatory proceeding which may form the basis of the **Claim**; all pleadings and other documents setting forth the **Claim** or notifying an **Insured** of the **Claim**; the **Circumstances** giving rise to the **Claim**; and the nature and extent of any potential **Damages**.
- c. If notice is of a **Loss**, or of an **Event** or **Circumstances** reasonably likely to give rise to a **Loss**, then a description of the **Loss**, when and how the **Knowledge Group Member** first **Discovered** the **Loss**, the **Circumstances** giving rise to the **Loss**, and the nature and extent of any potential **Loss**.
- d. If the notice is of **Circumstances**, then, in addition to the information in A.2.a., b., and c. above, a description of the **Circumstances**, when and how the **Knowledge Group Member** first **Discovered** the **Circumstances**, the reason the **Knowledge Group Member** believes such **Circumstances** are reasonably likely to result in an **Event**, **Claim** or **Loss**, and the nature and extent of any potential **Damages** or **Loss**.

3. REPORTS OF MALICIOUS CODES AND EXPLOITS

For **Network Security Events** based upon, arising out of, attributable to, caused by or resulting from **Malicious Code** or **Exploit**, the **Named Insured** must provide the **Company** as soon as possible with (a) any identifying characteristics, markers, or other information which may identify the **Malicious Code** or **Exploit** involved in the **Event**, and (b) a written report by a forensic **Vendor** which identifies the **Malicious Code** or **Exploit** involved in the **Event**, such report be provided to the **Company** no later than thirty (30) days after the first **Discovery** of such **Event**.

For all other **Events**, such a report must be provided at the **Company's** request.

B. NO COVERAGE

1. No coverage under this **Endorsement** will be provided for:
 - a. Any **Damages** incurred or paid prior to the time the **Company** is notified of the **Claim** or any **Related Claim** pursuant to Section IV.A.; or
 - b. Any **Loss** incurred or paid prior to the time the **Company** is notified of a **Loss** or any **Related Loss** pursuant to Section IV.A.
2. No coverage under this **Endorsement** will be provided if any **Insured** reports any matter knowing or having reason to know it to be false or fraudulent.

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C. DETERMINATION OF FIRST DISCOVERY

- 1.** Each **Claim** and all its **Related Claims**, whenever made, will be deemed a single **Claim** first **Discovered** on the earlier of the following:
 - a.** When the **Event** giving rise to the **Claim** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence; and
 - b.** When the earliest of the **Related Claims** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence.

This Section IV.C.1. applies regardless of the following:

- a.** The number of **Related Claims**;

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- b. The number or identity of **Impacted Individuals, Impacted Entities**, or any other persons, entities, or claimants involved;
 - c. Whether the **Related Claims** are asserted in a class action or otherwise; or
 - d. The timing of the **Related Claims**, even if the **Related Claims** were received or **Discovered** in more than one **Endorsement Period**.
2. **Loss** and all its **Related Losses**, whenever occurring, will be deemed a single **Loss** first **Discovered** on the earlier of the following:
- a. When the **Event** giving rise to the **Loss** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence; and
 - b. When the earliest of the **Related Losses** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence.

This Section IV.C.2. applies regardless of the following:

- a. The number of **Related Losses**;
 - b. The number or identity of **Impacted Individuals, Impacted Entities**, or any other persons or entities involved; or
 - c. The timing of the **Related Losses**, even if the **Related Losses** occurred or were **Discovered** in more than one **Endorsement Period**.
3. Each **Event** and all its **Related Events**, whenever occurring, will be deemed a single **Event** first **Discovered** on the earliest of the following:
- a. When the **Event** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence;
 - b. When the earliest of the **Related Events** was first **Discovered**, or could have been **Discovered** through the exercise of due diligence; and
 - c. When the earliest **Circumstances** were first **Discovered**, or could have been **Discovered** through the exercise of due diligence.

This Section IV.C.3. applies regardless of the following:

- a. The number of **Related Events** or **Circumstances**;
- b. The number or identity of **Impacted Individuals, Impacted Entities**, or any other persons, entities, or claimants involved; or
- c. The timing of the **Related Events** or **Circumstances**, even if the **Related Events** or **Circumstances** occurred or were **Discovered** in more than one **Endorsement Period**.

For purposes of this Section IV.C., due diligence includes but is not limited to compliance with Section V.

SECTION V: DUE DILIGENCE AND COOPERATION

A. DUE DILIGENCE REQUIREMENTS

1. It is a condition precedent to coverage under this **Endorsement** that the **Named Insured** must, at its sole cost and expense, use due diligence to prevent and mitigate against any

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Damages or Loss, and to protect and monitor the security of **Protected Information** and its **Computer System**. This includes, but is not limited to:

- a. Providing and maintaining appropriate physical security for the **Named Insured's** premises and the **Computer System**;
- b. Performing and installing all available software updates and patches as soon as practicable but in no event later than thirty (30) days from the time the update or patch becomes available;
- c. Installing, maintaining, monitoring, and updating firewalls, virus scans and anti-virus software, and ensuring that the foregoing are active and in use for the **Computer System**;
- d. Providing and running a data backup system at appropriate intervals, including without limitation performing a full backup of the **Computer System** at least once every thirty (30) days;
- e. Providing and maintaining password protection and encryption for all **IOT Devices, Portable Devices and Peripheral Hardwired Devices**;
- f. Providing and maintaining encryption for **Protected Information** and financial transactions such as credit card, debit card, and check processing; and
- g. Providing and maintaining secure disposal procedures for files containing **Protected Information** no longer needed for use.

B. COOPERATION

The **Insured** agrees not to take any action, or fail to take any requested action, that prejudices the **Insured's** rights or the **Company's** rights with respect to a **Claim** or **Loss**. In the event of a **Claim** or a **Loss**, the **Insured** must do the following upon the **Company's** request:

1. Fully assist and cooperate with the **Company** in the conduct, defense, investigation, negotiation, and settlement of a **Loss** or **Claim** or investigation of coverage of a **Loss** or **Claim**;
2. Submit to an examination under oath; provide the **Company** with written statements; attend meetings and negotiations; produce and make available all information, books, records, documents, and other materials which the **Company** deems relevant; and authorize the **Company** to obtain records and other information;
3. Take additional steps to protect the **Computer System** and **Protected Information** from further loss or damage and keep a record of the expenses necessary to do so;
4. Attend hearings, depositions, proceedings, trials, and appeals;
5. Assist the **Company** in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses, and pursuing or enforcing any right of contribution or indemnity against a person or entity who may be liable to the **Insured**;
6. Accept the **Company's** assignment of counsel unless otherwise prohibited by applicable law; and
7. Provide reports of forensic **Vendors** that identify the **Malicious Code** or **Exploit** involved in the **Event** as soon as possible; provided that this provision supplements, and does not replace, the reporting requirements set forth in Section IV.A.

SECTION VI: EXCLUSIONS

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A. The **Company** shall not be liable to pay, indemnify or reimburse for any **Claim, Damages** or **Losses** based upon, arising out of, attributable to, caused by or resulting from, whether actual or alleged:

1. Any of the following:

- a. Intentional creation or distribution of **Malicious Code** or **Exploit** by any **Insured**;
- b. Unauthorized tampering with any **Computer System** by any **Insured**; or
- c. Any dishonest, fraudulent, criminal, malicious, or willful act, error, or omission by any **Insured**.

2. Any **Mass Event**.

3. Any of the following:

- a. Failure, interruption of service, or defect by third parties;
- b. Misconfiguration of information technology systems, including but not limited to domain name system configuration changes and domain name hijacking, by third parties;
- c. Unauthorized access or unauthorized use of a third party's computer system;
- d. Malicious insider activity of or by third parties; or
- e. Distribution of **Malicious Code** or **Exploit** by third parties,

in each case that impact the **Computer System** and cause **Claims, Losses** or **Damages**. For the purposes of this exclusion third parties shall refer to (i) any cloud service provider; (ii) any other entity providing to an **Insured**, or servicing for an **Insured**, any hardware or software over the internet; or (iii) any other entity providing software as a service, infrastructure as a service, managed security as a service, platform as a service, or any form of cloud data storage as a service to an **Insured**.

4. Any mechanical or service failure, interruption of service, or defect of:

- a. Telephone, communications or data transmission lines, equipment or infrastructure;
- b. Internet system, internet service provider or cloud service provider, device or computer system (other than a **Computer System**, or an internet system owned or leased by and operated under the control of the **Named Insured**); or
- c. Electricity (including but not limited to power interruption, surge, brownout or blackout), gas, water or other utilities or their equipment or infrastructure (including, but not limited to power lines).

5. Shortcomings, errors or mistakes in any set of instructions (oral, written or electronic), scripts, program, code or software that is executed, run or installed on the **Computer System** either (a) during the course of a legitimate and authorized upgrade, update or maintenance process of any software, firmware or hardware on or part of a **Computer System**, or (b) that are present within the firmware or hardware of a **Computer System** as a result of the manufacturing process, in each case for (a) and (b), for the purposes of this exclusion, that directly causes **Claims, Losses** or **Damages**.

6. Any of the following:

- a. Bodily injury, sickness, or disease sustained by a person, including death resulting from any of these at any time;
- b. Physical injury to tangible property, including all resulting loss of use of that property; or
- c. Loss of use of tangible property that is not physically injured.

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This exclusion shall not apply to a **Claim** for mental injury, mental anguish, or emotional distress directly resulting from a **Privacy Breach Event** or a **Media Wrongful Event**. For purposes of this exclusion, electronic data is not considered tangible property.

7. Any of the following:
 - a. Nuclear reaction, nuclear radiation, radioactive contamination, radioactive substance, electromagnetic field, electromagnetic radiation, or electromagnetism;
 - b. Pathogenic or poisonous biological or chemical materials, whether or not man-made, including communicable disease events;
 - c. War, invasion, acts of foreign enemies, hostilities (whether war is declared or not), riot, civil unrest, rebellion, revolution, insurrection, war-like action, coup, usurped powers or military power, including but not limited to those by state-sponsored actors, and action taken by government authority in hindering or defending against any of these; or
 - d. Fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical event.
8. Any unlawful or unauthorized obtaining, gathering, collecting, acquiring, sharing, using, distribution or sale by an **Insured** of any **Protected Information**. Provided, however, this exclusion shall not apply to **Privacy Breach Expenses** or **Regulatory Proceedings Claims**, in each case directly arising from a **Privacy Breach Event**, and which are otherwise covered under this **Endorsement**.
9. The unsolicited dissemination of any communication to actual or prospective customers of the **Named Insured**, or to any other third party.

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10. Any violation of the Telecommunications Act, the CAN-SPAM Act, or any other federal, state or local legislation, regulation or law or common law, either: (a) protecting a person's or entity's right of seclusion or privacy (other than a **Privacy Law**), or (b) addressing the unsolicited distribution, transmission or dissemination of any communication.
11. Any gaining of any profit or advantage to which the **Insured** is not legally entitled.
12. Any patent infringement or theft, copying, display, or publication of any patent, process, or trade secret.
13. Any breach of contract, agreement, understanding, warranty (including but not limited to product warranty), or other guarantee or promise. This exclusion shall not apply to the following: Solely with respect to actual or alleged breach of contract, liability that would have attached to the **Named Insured** in the absence of such contract.
14. Any liability or obligation the Named Insured, or anyone acting on behalf of the Named Insured, assumes under any contract, agreement, understanding, warranty (including but not limited to product warranty), or other guarantee or promise. This exclusion shall not apply to the following: Liability that would have attached to the Named Insured in the absence of any such contract, agreement, understanding, warranty or other guarantee or promise.
15. Any seizure, nationalization, confiscation, destruction, deletion or expropriation of any **Protected Information** or any **Computer System** held or used by an **Insured** by order of any governmental authority.
16. Any of the following:
 - a. Violation of any federal, state, local, foreign legislation, regulation, or law prohibiting any restraint of trade or antitrust activity;
 - b. Any price fixing, price discrimination, monopoly or monopolization, predatory pricing, unfair competition, collusion, or conspiracy;
 - c. Any unfair, false, misleading, or deceptive trade or business practice; or
 - d. Any false, misleading, deceptive, or fraudulent statement or representation in advertising or promoting the products, services, or business of the **Named Insured**; provided, however, that this exclusion will not apply to a **Claim** directly arising from a **Media Wrongful Event**.
17. Any of the following:
 - a. Discrimination of any kind; or
 - b. Wrongful employment practice of any kind.
18. Any **Circumstances, Claim, Event, or Loss**:
 - a. That was the subject of notice to another insurer or potential indemnitor prior to the Effective Date of this **Endorsement**; or
 - b. **Discovered** prior to the Effective Date of this **Endorsement**, or could have been **Discovered** through the exercise of due diligence prior to the Effective Date of this **Endorsement**.
19. The presence, discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, oil or other petroleum substances or derivatives, waste materials or other irritants, contaminants, pollutants or any other substances, including asbestos, fungus, mold and lead, which are or may be injurious to

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public health, property or the environment (“hazardous substances”), including but not limited to:

- a. The cost of cleanup or removal of hazardous substances;
- b. The cost of such actions as may be necessary to monitor, assess and evaluate, the presence, discharge, dispersal, escape, release, or threat of same, of hazardous substances;
- c. The cost of disposal of hazardous substances or the taking of such other action as may be necessary to temporarily or permanently prevent, minimize, or mitigate damage to the public health or welfare or to property or the environment, which may otherwise result; or
- d. Any cost, based upon, arising out of, attributable to, caused by or resulting from, or involving in any way any government direction or request that the **Named Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize hazardous substances.

B. The **Company** shall not be liable to pay for any **Claim** or **Damages** based upon, arising out of, attributable to, caused by or resulting from any **Claim** or **Damages**, whether actual or alleged, by any of the following:

1. Any **Insured** against another **Insured**, except for an otherwise covered **Claim** by an **Insured** under Section I.A.3.a.;
2. Solely in the case of a **Privacy Breach Event**, by any person or entity other than an **Impacted Individual**, an **Impacted Entity**, or (solely in the case of a **Regulatory Proceeding Claim**) a federal or state regulatory body or regulator;
3. Any entity owned or controlled by, or which is under common ownership or control with, the **Named Insured**;
4. Any person or entity which owns or controls the **Named Insured**; or
5. Any independent contractor of the **Named Insured**.

SECTION VII: GENERAL CONDITIONS

A. TERMINATION

The cancellation and nonrenewal provisions of the policy to which this **Endorsement** is attached shall apply to this **Endorsement**. This **Endorsement** shall remain in effect until the expiration of the **Endorsement Period** unless:

1. The policy to which this **Endorsement** is attached is cancelled or non-renewed prior to the expiration of the **Endorsement Period**; or
2. This **Endorsement** is removed at the request of the **Named Insured**, such removal to be confirmed by further endorsement to the policy.

B. CHANGE IN CONTROL

1. For purposes of this **Endorsement**, a “Sale Transaction” means either of the following that occurs during the **Endorsement Period**:
 - a. The **Named Insured** consolidates or merges with or into, or sells more than 50% of its assets to, any other person or entity or group of persons or entities acting in concert, such that the **Named Insured** is not the surviving entity; or

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- b. Any person or entity or group of persons or entities acting in concert acquire more than 50% of the issued and outstanding voting equity securities of the **Named Insured** or control voting rights representing the right to vote for election of or to appoint more than 50% of the directors or trustees of the **Named Insured**.

In the event of a Sale Transaction, this **Endorsement** shall continue in full force and effect as to any **Event** first **Discovered** prior to the Sale Transaction. There shall be no coverage under this **Endorsement** for any **Event** first **Discovered** after the Sale Transaction. The **Named Insured** shall give the **Company** written notice of the Sale Transaction as soon as practicable but not later than thirty (30) days after the Sale Transaction.

- 2. For purposes of this **Endorsement**, an “Acquisition Transaction” means any of the following that occurs during the **Endorsement Period**:
 - a. The **Named Insured** consolidates or merges with any other person or entity or group of persons or entities acting in concert such that the **Named Insured** is the surviving entity;
 - b. The **Named Insured** acquires the assets of any other person or entity or group of persons or entities acting in concert, where such assets represent a market value, as of the date of such acquisition, of 10% or greater of the **Named Insured’s** market value;
 - c. The **Named Insured** acquires or creates a new entity or subsidiary such that the **Named Insured** holds more than 50% of the issued and outstanding voting equity securities or controls voting rights representing the right to vote for election of or to appoint more than 50% of the directors or trustees of such entity or subsidiary; or
 - d. The subsequent addition of another entity or person as a **Named Insured** in addition to the entity or person listed at the time of the commencement of the **Endorsement Period** as the **Named Insured** on the Policy Declarations to which this **Endorsement** is attached.

In the event of an Acquisition Transaction, then there is coverage under this **Endorsement** for such additional entity, subsidiary or person for any **Claim, Loss, Event, or Circumstances** first **Discovered** within the sixty (60) day period immediately following the Acquisition Transaction or until the end of the **Endorsement Period**, whichever occurs first. There is no coverage for such additional entity, subsidiary or person after that time period unless (i) as soon as practicable but no later than thirty (30) days after the Acquisition Transaction, the **Named Insured** provides the **Company** with notice and the particulars of such Acquisition Transaction; (ii) the **Company** agrees to extend the coverage of this **Endorsement** to such surviving **Named Insured**, newly acquired or created entity or subsidiary, or additional entity or person, as applicable, and the **Company** amends the terms of this **Endorsement** accordingly; and (iii) the **Named Insured** pays any additional premium when due. Such extended coverage does not apply to any **Claim, Loss, Event, or Circumstances** first **Discovered** or that could have been first **Discovered** (either by a **Knowledge Group Member** or equivalent in such additional entity or subsidiary) through the exercise of due diligence (including but not limited to in compliance with Section V) before the Acquisition Transaction.

C. BANKRUPTCY

Bankruptcy or insolvency of the **Named Insured** will not relieve any **Insured** or the **Company** of any obligations nor deprive the **Company** of its rights and defenses under this **Endorsement** unless such obligations are in violation of applicable law.

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D. EXCESS COVERAGE

This insurance shall be excess of any other insurance that applies to any **Claim, Event, Loss, Circumstances** or **Damages** covered hereunder and shall not contribute with any or all other insurance, including any deductible or retention, whether collectible or not.

E. ASSIGNMENT

This **Endorsement** and any and all interests and rights hereunder are not assignable without **Approval**.

F. TERMS TO CONFORM TO APPLICABLE LAW

Where necessary, the **Company** shall amend the terms and conditions of this **Endorsement** to conform to applicable law.

G. TERRITORY

This **Endorsement** applies to acts committed or **Losses** occurring anywhere in the world except as set forth under "Sanctions" in Section VII.H.; provided, however, that any **Claim** must be brought in the United States.

H. SANCTIONS

This **Endorsement** does not apply, and the **Company** shall not be liable to provide coverage or provide any benefit hereunder, to the extent that the provision of such coverage, payment of such claim or provision of such benefit would be in violation of any trade or economic sanctions law or regulation applicable to the **Company's** jurisdiction of domicile or those of another jurisdiction with which the **Company** is legally obligated to comply, including without limitation any trade or economic sanctions or embargo by the United States.

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I. LEGAL ACTION AGAINST THE COMPANY

1. No legal action or claim may be brought against the **Company** based upon, arising out of, attributable to, caused by or resulting from this Endorsement unless the following criteria are met:
 - a. There has been full compliance by the **Insureds** with all the terms and conditions of this **Endorsement**; and
 - b. The action is brought within the limit of time provided under applicable law, but in no event later than sixty (60) months from the date the **Knowledge Group Member** first **Discovers** the earliest of any **Circumstances, Claim, Event** or **Loss** pertaining to such action.
2. In the event that the requirements set forth in Section VII.I.1. have been complied with, with respect to a legal action or claim against the **Company**, the amount of damages and losses shall be limited to the following:
 - a. The amount of a non-appealable order of a court or other tribunal (e.g., arbitral panel) resolving such dispute on the merits; or
 - b. The amount for which the legal action or claim was settled, provided that the settlement was agreed to in accordance with the terms and conditions of this **Endorsement**.

J. NO JOINDER

No individual or entity shall have any right under this **Endorsement** to join the **Company** as a party to any **Claim** to determine the liability of the **Insured**, nor shall the **Company** be impleaded by the **Insured** or the **Insured's** legal representative in any such **Claim**.

K. SUBROGATION

In the event of any payment under this **Endorsement**, the **Company** shall be subrogated to the extent of such payment to all the **Insured's** rights of recovery thereof, and the **Insured** shall execute all papers required and shall do everything that may be necessary to preserve and secure such rights, including the execution of such documents necessary to enable the **Company** to effectively bring suit in the name of the **Insured**.

The **Company** assumes no duty to recover any amounts paid under this **Endorsement**; however, any amounts as may be recovered pursuant to the exercise of the **Company's** rights of subrogation shall be applied as follows: (i) to the repayment of expenses incurred by the **Company** in exercising any rights of subrogation; (ii) to **Damages** and **Losses** incurred by the **Named Insured** in excess of the Limits of Liability hereunder; and (iii) to **Damages** and **Losses** paid by the **Company**.

L. HEADINGS

The titles of paragraphs, sections, provisions, or endorsements of or to this **Endorsement** are intended solely for convenience and reference, and are not deemed in any way to limit or expand the provisions to which they relate and are not part of the **Endorsement**.

SECTION VIII: DEFINITIONS

Except where this Endorsement expressly or by implication indicates otherwise, the plural of any term includes the singular, and the singular of any term includes the plural. To the extent of any conflict

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between defined terms in this **Endorsement** and the policy to which this **Endorsement** is attached, then the definitions set forth in this **Endorsement** shall prevail.

A. Approval and **Approved** means the **Company's** written approval, including in response to a written request for approval by the **Named Insured**. Where **Approval** is required in this **Endorsement** the **Named Insured** must promptly submit such written request for **Approval** to the **Company**.

B. Circumstances means facts, subjects, situations, decisions, causes, persons, transactions, events, acts, errors or omissions, or class of persons or events, in each case which could reasonably be likely to give rise to a **Claim**, **Loss**, or **Event**, as applicable.

C. Claim means each of the following:

1. For the purposes of **Third Party Liability Events**, a **Third Party Claim**; and
2. For the purposes of Section I. A. 3. "b.", the REGULATORY INSURING AGREEMENT, a **Regulatory Proceeding Claim**.

D. Claim Expenses means each of the following, with respect to any **Claim**:

1. Reasonable and necessary fees, costs and expenses charged by any **Vendor** and **Approved**, such **Vendor Approved** in advance (including lawyers, experts, and litigation support staff) for the investigation, adjustment, settlement and/or defense of such **Claim**;
2. Post-judgment interest which accrues after a **Final Judgment**; and
3. The premiums for appeal, attachment, or similar bonds, but only for bond amounts **Approved** and within the remaining applicable Limits of Insurance. The **Company** does not have any obligation to furnish these bonds.

Claim Expenses do not include the following:

1. Salaries, wages, fees, remuneration, overhead, benefits, or expenses of the **Company** or the **Insureds**;
2. Fees, costs, and expenses incurred prior to the time that a **Claim** was reported to the **Company**;
3. Fees, costs, and expenses incurred without **Approval**;
4. Fees, costs, and expenses incurred to improve or upgrade the **Computer System** beyond what it was prior to the **Claim**; or
5. Fees, costs, and expenses to comply with any injunctive or other non-monetary equitable, declaratory, regulatory, or administrative relief.

E. Company means the Insurer as titled on the Schedule page of this **Endorsement**.

F. Computer System means a computer or series of interconnected computers owned or leased by and operated under the control of the **Named Insured**. **Computer System** also includes the following, but only if owned or leased by and operated under the control of the **Named Insured**:

1. **Electronic Media**;
2. **Portable Devices**;
3. **IOT Devices**; and
4. **Peripheral Hardwired Devices**.

Computer System does not include a computer system the **Named Insured** operates for others.

G. Corporate Information means any business information of a third party, which is not available to the general public and is provided to an **Insured** subject to a mutually executed written confidentiality agreement with the **Named Insured**, or which the **Named Insured** is legally required to maintain in confidence. The **Corporate Information** must be in the direct care, custody or control of the **Named Insured** in the ordinary course and scope of its business operations. The

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term **Corporate Information** does not include **Personally Identifiable Information**.

H. Damages means each of the following:

1. With respect to a **Third Party Claim, Claim Expenses** and the following monetary amounts the **Insured** becomes legally obligated to pay resulting from a **Final Judgment** or settlement:
 - a. Compensatory damages,
 - b. Attorney's fees and other litigation costs included in any **Final Judgment**, and
 - c. Pre-Judgment interest included in any **Final Judgment**.
2. With respect to a **Regulatory Proceeding Claim, Claim Expenses** and only the **Regulatory Fines** the **Insured** becomes legally obligated to pay.

Damages does not include any of the following:

- i. Any monetary amount which the **Insured** is not legally obligated to pay;
 - ii. Any monetary amount which is not insurable under the applicable law or jurisdiction pursuant to which the **Endorsement** is construed;
 - iii. Past, present and future earned and unearned royalties, profits, fees, costs, expenses, or commissions, or the return of royalties, profits, fees, costs, expenses, commissions, and profits unjustly held or obtained;
 - iv. Consideration charged by, paid to or owed to the **Insured**, including but not limited to restitution, disgorgement, reduction, or return of any consideration;
 - v. Fees, costs, and expenses required to comply with any injunctive or other non-monetary equitable, declaratory, regulatory, or administrative relief;
 - vi. Discounts, prizes, awards, coupons, or other incentives offered to the **Insured's** clients, **Impacted Individuals**, or **Impacted Entities**;
 - vii. Civil or criminal fines or penalties imposed by law, except **Regulatory Fines**;
 - viii. Punitive and exemplary damages;
 - ix. The multiple portion of any multiplied damages; or
 - x. Taxes, loss of tax benefit or fines, tax penalties or sanctions imposed against the **Named Insured**.
- I. Discovers** or **Discovered** means the time a **Knowledge Group Member** receives, receives notice of, or becomes aware of any of the following: (i) any **Event**; (ii) any **Circumstances**; or (iii) any **Claim** or **Loss** or potential **Claim** or **Loss**, regardless of the potential amount of the **Claim** or **Loss**.
- J. Electronic Media** means any electronic data which is unique to the **Named Insured**, including audio or visual information, ready-for-use applications, programs, and other content in machine-readable format.
- K. Electronic Media Advertising** means **Electronic Media** which advertises or promotes the **Named Insured's** products or services.
- L. Endorsement** means this Endorsement issued by the **Company**.
- M. Endorsement Period** means the **Endorsement Period** set forth in the Schedule.
- N. Event** means a **Media Wrongful Event**, a **Network Security Event** or a **Privacy Breach Event**.
- O. Exploit** means a vulnerability in a **Computer System** or software through which **Malicious Code**, or software designed to find, create, or take advantage of such vulnerability, can enter such **Computer System**.
- P. Final Judgment** means a non-appealable order of a court or other tribunal (e.g., arbitral panel) resolving, on the merits, a dispute between an **Insured** and a third party (including government

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agencies), as to which either no further appeal is possible or a decision is made with **Approval** not to appeal further.

Q. Impacted Entities means any business, entity or organization whose **Corporate Information** is lost, stolen, unintentionally or unknowingly disseminated, or accidentally published by a **Privacy Breach Event** covered under this **Endorsement**. This definition is subject to all of the following provisions:

1. **Impacted Entity** does not include any **Impacted Individual**; and
2. **Impacted Entity** may be domiciled anywhere in the world.

R. Impacted Individuals means any person whose **Personally Identifiable Information** is lost, stolen, unintentionally or unknowingly disseminated, or accidentally published by a **Privacy Breach Event** covered under this **Endorsement**. This definition is subject to all of the following provisions:

1. **Impacted Individual** does not include any **Impacted Entity**. Only an individual person may be an **Impacted Individual**; and
2. **Impacted Individual** may reside anywhere in the world.

S. IOT Device means any electronic device (other than a **Portable Device**) or hardware connected device, that connects to the **Computer System** directly or through a **VPN**. **IOT Devices** include, but are not limited to, smart printers, industrial control systems, security systems, smart speakers, smart televisions and smart appliances.

T. Insured means the **Named Insured**, **Knowledge Group Members**, and the **Named Insured's** employees but only while such employees are acting within their capacity as such for the **Named Insured**.

U. Knowledge Group Member(s) mean the **Named Insured's** principals, officers, directors, and risk managers, but only while acting in their capacity as such for the **Named Insured**.

V. Loss(es) means **Privacy Breach Expenses**.

Loss(es) do not include:

1. Costs and expenses required to comply with any injunctive or other non-monetary equitable, declaratory, regulatory, or administrative relief, including but not limited to costs to remove electronic data from a website or social media site;
2. Any monetary amount which is not insurable under the applicable law or jurisdiction pursuant to which the **Endorsement** is construed;
3. Discounts, prizes, awards, coupons, or other incentives offered to the **Insured's** clients, **Impacted Individuals**, or **Impacted Entities**;
4. Consideration charged by, paid to or owed to the **Insured**, including but not limited to restitution, disgorgement, reduction, royalties or licensing fees, or return of any consideration;
5. Any costs, fees or expenses incurred or paid by the **Insured** in establishing the existence of or amount of **Loss**, other than to a **Vendor** (including lawyers, experts, and litigation support staff) designated in writing or **Approved** in advance;
6. Fines, taxes, penalties, loss of tax benefits or sanctions; or
7. Indirect or consequential losses.

W. Malicious Code means an unauthorized or harmful program, code, or script, including but not limited to any virus, Trojan horse, worm, time, logic bomb, spyware, ransomware, or malware.

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X. Mass Event means the original and any variant of a **Malicious Code** or **Exploit** that is both:

1. The subject of an alert by, or is identified by a name or designation that is assigned by, any (i) United States (federal or state) government entity or agency or (ii) computer security, forensics, threat intelligence, or anti-virus entity, service provider or vendor (including but not limited to CrowdStrike, Juniper Networks, Mandiant/FireEye, Norton, Malwarebytes, McAfee, Kaspersky, Digital Shadows, RiskIQ, Recorded Future, Flashpoint, Anomali, Mimecast, Proofpoint, Palo Alto Networks, RSA, Seculert/Radware, Symantec, or Verizon); and
2. Publicized (meaning reported on in two or more news or technology media or publications, including but not limited to The New York Times, Washington Post, Los Angeles Times, Financial Times, FOX Corporation, CNN, The Wall Street Journal, NBC News, ABC News, CBS News, VICE Motherboard, Data Breach Today, Krebs on Security, Dark Reading, ZD NET, Wired, PC World, The Register, or CSO Online);

in each case, prior to an **Insured** providing notice of an **Event, Loss, Claim** or **Circumstances**, whichever is earliest, pursuant to Section IV. A.

Y. Media Wrongful Event means any or all of the following that is unintentionally or unknowingly caused by **Electronic Media Advertising** first published or disseminated during the **Endorsement Period**:

1. Libel, slander or other defamation; or
2. Infringement of copyright, trademark, title, slogan, trade name, trade dress, service mark, service name, or misappropriation of ideas.

Z. Named Insured means the person(s) and/or entity(ies) listed on the Policy Declarations, to which this Endorsement is attached.

AA. Network Disruption Event means an interruption, disruption, failure, suspension, or delay in the performance of the **Computer System** directly caused by **Unauthorized Access** or **Unauthorized Use** of, or the introduction of **Malicious Code** or **Exploit** into, the **Computer System**.

BB. Network Security Event means any one or more of the following directly caused by a **Network Disruption Event**:

1. The inability of an **Insured** or authorized third party user to access the **Computer System**;
2. An **Insured's** transmittal or distribution of **Malicious Code** or **Exploit** to, or the failure or corruption of, a third party's computer system or network; or
3. The perpetuation of a denial of service attack on a third party's computer system or network.

CC. Peripheral Hardwired Devices means non-portable devices connected by hardwire to the **Computer System**, including but not limited to printers, scanners, and routers.

DD. Personally Identifiable Information means any non-public information about a person that allows such person to be uniquely and reliably identified, or allows access to the person's financial account or medical records information, and for which notification of unauthorized access is required by a **Privacy Law**. The term **Personally Identifiable Information** does not include publicly available information that is lawfully made available to the general public (including, without limitation, being made available by such person on social media or other public sites), or **Corporate Information**. The **Personally Identifiable Information** must be in the direct care, custody or control of the **Named Insured** in the ordinary course and scope of its business operations.

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EE. Portable Device means an electronic portable device such as a computer, smart phone, smart wearable or other similar device that connects to the **Computer System** either directly or through a **VPN**.

FF. Privacy Breach Event means the following actual or alleged events:

1. Theft, loss, unintentional or unknowing dissemination, or accidental publication of **Protected Information**;
2. **Unauthorized Access or Unauthorized Use of Protected Information**; or
3. The **Named Insured's** violation of a **Privacy Law**.

GG. Privacy Breach Expenses means the following reasonable and necessary fees, costs and expenses directly incurred for or by the **Named Insured**, and **Approved** in advance, in responding to a **Privacy Breach Event**:

1. Notification Expenses:

Notification fees and expenses charged by a **Vendor** (including lawyers, experts, and litigation support staff) to notify an **Impacted Individual** and any regulator required to be notified by applicable law that: (i) a **Privacy Breach Event** occurred, and (ii) there was, may have been or may be **Unauthorized Access or Unauthorized Use** of the **Personally Identifiable Information**.

2. Monitoring Expenses:

Fees and expenses charged by a **Vendor** (including lawyers, experts, and litigation support staff) to provide credit monitoring, identity theft, or fraud resolution services to an **Impacted Individual** affected by a **Privacy Breach Event**.

3. Cyber Investigation Expenses:

Fees and expenses charged by a **Vendor** (including lawyers, experts, and litigation support staff) to investigate any or all of the following:

- a. Whether **Protected Information** has been accessed; or
- b. Whether the **Named Insured** has an obligation to provide notice under a **Privacy Law**.

4. Crisis Management Expenses:

a. Fees and expenses charged by an **Approved** public relations firm, law firm or crisis management firm to perform crisis management services to minimize the potential harm to the **Named Insured's** business from a **Privacy Breach Event**; and

b. Fees and expenses charged by a call center designated in writing or **Approved** in advance to assist in managing incoming calls during and concerning a **Privacy Beach Event**.

Privacy Breach Expenses shall not include the following:

- i. Salaries, wages, fees, remuneration, overhead, benefits, or expenses of the **Company** or the **Insureds**; or
- ii. Fees, costs or expenses to enhance, upgrade or otherwise modify, or improve the **Computer System** beyond the level that existed immediately prior to the occurrence of a **Privacy Breach Event**.

HH. Privacy Law means any law or regulation governing the protection of **Personally Identifiable Information**, provided that the text of the law or regulation expressly requires one or more of the following:

1. Posting privacy policies;
2. Adopting specific privacy or security controls for **Personally Identifiable Information**; or

COMMERCIAL CYBER DATA BREACH COVER

3. Notifying **Impacted Individuals** if their **Personally Identifiable Information** has potentially been accessed or disclosed without authorization.

II. Protected Information means **Personally Identifiable Information** or **Corporate Information**.

JJ. Regulatory Fines means the civil or administrative fines or penalties assessed against a **Named Insured** in a **Regulatory Proceeding Claim**, if such fines and penalties are insurable under the applicable law and the **Named Insured** is legally obligated to pay such fines and penalties, in all cases arising from a **Privacy Breach Event**.

KK. Regulatory Proceeding Claim means each of the following that alleges the failure to comply with a U.S. federal or state **Privacy Law**:

1. A written demand to the **Named Insured** for documentation or information commenced by service of a complaint or similar pleading brought by a federal or state regulatory body or regulator; or
2. An investigation or civil proceeding brought against the **Named Insured** by a federal or state regulatory body or regulator.

LL. Related Claims mean all **Claims** that are based upon, arising from, in consequence of, directly or indirectly resulting from, or involving the same, continuous, repeated, related, or substantially similar **Circumstances**, or a same, continuous, repeated, related, or substantially similar series of **Circumstances**.

MM. Related Events means all **Events** that are based upon, arising from, in consequence of, directly or indirectly resulting from, or involving the same, continuous, repeated, related, or substantially similar **Circumstances**, or a same, continuous, repeated, related, or substantially similar series of **Circumstances**.

NN. Related Losses mean all **Losses** that are based upon, arising from, in consequence of, directly or indirectly resulting from, or involving the same, continuous, repeated, related, or substantially similar **Circumstances**, or a same, continuous, repeated, related, or substantially similar series of **Circumstances**.

OO. Third Party Claims means a written demand or assertion of a legal right for monetary damages or services, including the service of a civil complaint or similar proceeding, or request for arbitration or mediation, brought against an **Insured**, in each case directly arising from a **Third Party Liability Event**. For the avoidance of doubt, **Third Party Claims** do not include **Regulatory Proceeding Claims**.

PP. Third Party Liability Event means any or all of the following:

1. **Media Wrongful Event**;
2. **Network Security Event**; or
3. **Privacy Breach Event**.

QQ. Unauthorized Access or Unauthorized Use means the access to or use of the **Computer System** or **Protected Information** by a person or entity not authorized to do so, or the access to or use of the **Computer System** or **Protected Information** by an authorized person or entity in an unauthorized manner.

RR. Vendor means a third party person or entity that provides services to the **Named Insured** that the **Company** has either (i) designated in writing, or (ii) **Approved**. Where indicated, the term **Vendor** may include lawyers, experts, and litigation support staff.

SS. VPN means a virtual private network.

COMMERCIAL CYBER DATA BREACH COVER



Articles of Incorporation for a Nonprofit Corporation

filed pursuant to § 7-122-101 and § 7-122-102 of the Colorado Revised Statutes (C.R.S.)

The domestic entity name of the nonprofit corporation is Confluence at Two Rivers Community Association, Inc.

The principal office street address is

245 Chapel Pl, Suite C201
Avon CO 81620
US

The principal office mailing address is

PO Box 8690
Avon CO 81620
US

The name of the registered agent is FCAP Manager, LLC

The registered agent's street address is

245 Chapel Pl, Suite C201
Avon CO 81620
US

The registered agent's mailing address is

PO Box 8690
Avon CO 81620
US

The person above has agreed to be appointed as the registered agent for this entity.

The name(s) and address(es) of the incorporator(s)

FCAP Confluence, LLC
245 Chapel Pl, Suite C201
Avon CO 81620
US

Voting members

There are voting members for the nonprofit corporation.

The distribution of assets for the nonprofit corporation:

According to Declaration for Confluence at Two Rivers (Association Documents).

Causing this document to be delivered to the Secretary of State for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that the document is the individual's act and deed, or that the individual in good faith believes the document is the act and deed of the person on whose behalf the individual is causing the document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S., and, if

applicable, the constituent documents, and the organic statutes, and that the individual in good faith believes the facts stated in the document are true and the document complies with the requirements of that Part, the constituent documents, and the organic statutes.

This perjury notice applies to each individual who causes this document to be delivered to the Secretary of State, whether or not such individual is named in the document as one who has caused it to be delivered.

Name(s) and address(es) of the individual(s) causing the document to be delivered for filing

Levi Rozga
245 Chapel Pl, Suite C201
Avon CO 81620
US

Bylaws
of
Confluence at Two Rivers Community Association, Inc.

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**Bylaws
of
Confluence at Two Rivers Community Association, Inc.**

Recitals

Article 1. Introduction and Purpose

The Association is a Colorado nonprofit corporation under the Colorado Revised Nonprofit Corporation Act.

These Bylaws are adopted to regulate and manage the affairs of the Association. The Association's purposes are to:

- preserve the value and desirability of Confluence at Two Rivers, a planned community;
- act as an entity for the owners pursuant to the Declaration for Confluence at Two Rivers, as the Declaration may be amended from time to time (the "Declaration");
- operate and govern the community known as Confluence at Two Rivers;
- provide for the administration, maintenance and preservation of the Lots and Common Elements within the Community; and
- further the interests of the residents and occupants of the Community,

Article 2. Definitions

All capitalized terms used in these Bylaws have the same meaning as set forth in the Declaration. As used in these Bylaws, the term "Member" means the same as "Owner" as defined in the Declaration.

Article 3. Membership and Voting

Section 3.1 Membership. Every person who is an Owner is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of any Townhome. Ownership of a Townhome is the sole qualification for membership. To the extent deemed appropriate, classes of Members may be established by the Declarant.

Section 3.2 Suspension of Member Rights. Without notice or hearing, during any period in which a Member is in default in the payment of any assessment levied by the Association, the Member's voting rights are deemed suspended by the Board of Directors.

Section 3.3 Member Voting.

- (a) The Owner of a Townhome is entitled to one vote for the Townhome, as set forth in the Declaration.
- (b) Each Member eligible to vote may vote in person or by proxy at all Member meetings.

(c) If only one of several Owners of a Townhome is present at a Member meeting, the Owner present is entitled to cast the vote allocated to the Townhome.

(d) If more than one of the Owners is present, the vote allocated to the Townhome may be cast only in accordance with the agreement of a majority of those Owners. Majority agreement is deemed to exist if any one of the Owners casts the vote allocated to the Townhome without protest being made promptly to the person presiding over the meeting by another Owner of the Townhome. If co-Owners disagree or attempt to cast more than one vote, no such votes will be counted.

(e) In the absence of express notice to the Board of Directors of the designation of a specific person to cast a vote, the vote of a partnership may be cast by any general partner of that partnership; the vote of a limited liability company may be cast by any manager of that limited liability company; the vote of a corporation may be cast by any officer of that corporation; and the vote of a trust may be cast by any trustee of that trust.

(f) The chair of the meeting may require reasonable evidence that a person voting on behalf of a partnership, limited liability company, corporation or trust is qualified to vote.

(g) Votes allocated to Townhomes owned by the Association may not be cast by the Board of Directors.

Section 3.4 Proxies.

(a) Proxies from Members are expressly allowed.

(b) The vote allocated to a Townhome may be cast under a proxy duly executed by an Owner.

(c) All proxies are to be in writing and filed with the secretary or designee of the Association at or prior to the meeting.

(d) If a Townhome is owned by more than one person, each Owner of the Townhome may vote or register protest to the casting of the vote by the other Owners of the Townhome through a duly executed proxy. In the event of disagreement between or among co-Owners and an attempt by 2 or more of them to cast such vote or votes, such vote or votes will not be counted.

(e) An Owner may revoke a proxy given under this section by written notice of revocation to the person presiding over the meeting.

(f) A proxy is void if it is not dated.

(g) A proxy terminates 11 months after its date, unless it specifies a shorter term or a specific purpose, or upon sale of the Townhome for which the proxy was issued.

(h) A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

Section 3.5 Voting Procedures. Voting by Members is subject to the following:

(a) Votes for contested positions on the Board of Directors must be taken by secret ballot.

(b) At the discretion of the Board or upon request of 20% of the Owners who are present in person or by proxy at a meeting at which a quorum is present, a vote on any matter affecting the Community on which all Owners are entitled to vote will be by secret ballot.

(c) The results of a vote taken by secret ballot must be reported without reference to Owners' names, addresses, or other identifying information.

(d) Voting may be by voice, by show of hands, by consent, by mail, by electronic means, by proxy, by written ballot, or as otherwise determined by the Board of Directors prior to the meeting or by a majority of the Members present at a meeting; provided, however, if secret balloting is required, the means of voting will protect the secrecy of the ballot.

Section 3.6 Voting by Mail or Electronic Means in Lieu of a Meeting.

(a) In case of a vote by mail or electronic means in lieu of a meeting, the secretary is to mail, deliver or provide notice to all Members, as allowed by applicable nonprofit corporation law.

(b) The notice is to include:

(i) a proposed written resolution setting forth a description of the proposed action;

(ii) a statement that Members are entitled to vote by mail or electronic means "for" or "against" such proposal;

(iii) a date at least 10 days after the date of the notice (or, as allowed under applicable nonprofit corporation law) after the notice given, on or before which all votes must be received at the Association's office at the address designated in the notice; and

(iv) the number of votes which must be received to meet the quorum requirement and the percentage of votes received needed to carry the vote.

(c) Voting by mail or electronic means is acceptable in all instances in the Declaration, Articles or these Bylaws requiring the vote of Members at a meeting.

(d) The Association may conduct elections of directors by mail or electronic means, in its sole discretion, and pursuant to procedures adopted by it.

Section 3.7 Voting in Elections of Directors / Other Voting.

(a) In an election of directors, the candidates receiving the largest number of votes are elected.

(b) On all other items, the vote of more than 50% of Members voting at a meeting at which at least a quorum is present constitutes a majority and is binding upon all Members for all purposes except where a higher percentage vote is required in the Declaration, these Bylaws, the Articles of Incorporation, or by law.

Section 3.8 Voting List.

(a) The Association is to maintain a list of the names and addresses of all Members and the number of votes each is entitled to vote.

(b) After a record date is fixed for a membership meeting or for determining the Members entitled to vote by written ballot, the secretary is to make, at the earlier of 10 days before the meeting or 2 business days after notice of the meeting has been given, a complete list of the Members entitled to be given notice of the meeting or any adjournment of the meeting. The list will be arranged in alphabetical order and is to show the name and address of each Member and number of votes to which each Member is entitled.

(c) For the period beginning the earlier of 10 days prior to the meeting or 2 business days after notice of the meeting is given and continuing through the meeting and any adjournment of the meeting, this list will be kept on file at the Association's office. The list will be available for inspection upon written request by any Member during regular business hours and during the period available for inspection.

(d) If the list is prepared in connection with a written ballot, it will be available for inspection beginning on the date the first written ballot is delivered and continuing through the time when such written ballots must be received by the Association in order to be counted.

(e) Any Member may copy the list during regular business hours, at the Member's expense, and during the period it is available for inspection, provided the Member pays a reasonable charge covering the costs of labor and material for the copies, not to exceed the estimated cost of production and reproduction.

(f) At all times, the list will be available for inspection and copying in accordance with these Bylaws and the Association's records inspection policy.

Section 3.9 Limitation on Use of Voting List and Membership List. Unless the Board of Directors gives its prior consent, the Association's voting lists and membership list or any part thereof may not be: (a) obtained or used by any person for any purpose unrelated to a Member's interest as a Member; (b) used to solicit money or property unless the money or property will be used solely to solicit the votes of the Members in an election by the Association; (c) used for any commercial purpose; or (d) sold to or purchased by any person.

Section 3.10 Transfer of Membership. Transfer of memberships are to be made on the Association's books only upon presentation of evidence, satisfactory to the Association, of the transfer of ownership of the Townhome. Prior to presentation of such evidence, the Association may treat the previous Owner as the Member entitled to all rights connected with a membership, including the right to vote and to receive notice, without liability.

Article 4. Meetings of Members

Section 4.1 Annual Meetings.

(a) An annual meeting of the Members will be held during each of the Association's fiscal years, at such time, date and place as the Board determines or virtually, over the internet, by conference call or other electronic means, as the Board determines.

(b) At these meetings, the directors are to be elected by the Members in accordance with the provisions of the Bylaws.

(c) Failure to hold an annual meeting does not affect the validity of any action of the Association and is not considered a forfeiture or dissolution of the Association.

Section 4.2 Budget Ratification Meetings.

(a) Meetings to consider proposed budgets are to be called in accordance with the terms of the Declaration and these Bylaws.

(b) The Declaration's budget process allows a percentage of the Membership to veto a proposed budget adopted by the Board.

(c) The budget process is as follows:

(i) The Board of Directors is to prepare and approve a proposed budget at least annually.

(ii) Within a reasonable time or 90 days after the Board of Directors adopts the proposed budget, the Board of Directors will mail or otherwise provide (as allowed by applicable law) a summary of the proposed budget to those entitled to vote and set a date for a special or annual meeting to consider ratification of the proposed budget.

(iii) Notice for the meeting at which the budget will be considered must be provided not less than 10 days or more than 50 days before the meeting (as allowed by applicable law).

(iv) At the meeting, unless Owners holding at least 70% of the votes in the Association vote to reject the proposed budget, the proposed budget is ratified and becomes the approved budget of the Association.

(v) A quorum is not required at the meeting if the meeting is only a budget meeting. If the meeting is also an annual or special meeting at which other business will be conducted, a quorum is required for other business to be conducted, but not required for ratification of the budget.

(d) If a proposed budget is rejected by a percentage vote of the Members (as allowed for in the Declaration), the budget last ratified continues until a subsequent budget proposed by the Board of Directors is ratified.

Section 4.3 Special Meetings. Special meetings of the Members may be called by the president, by a majority of the members of the Board of Directors or by the secretary, upon receipt of a written petition signed by Owners comprising at least 20% of the total votes of the Association. A written petition by the Owners must identify the special meeting purpose on each page of the petition, which must be a purpose for which the Association membership is authorized to act under the Governing Documents. The Board of Directors is to determine the form of notice, and the date, time, place of the meeting or whether the meeting is virtual, held over the internet, by conference call or other electronic means. If the secretary does not give notice for a special meeting demanded pursuant to a proper petition within 30 days after the date the written demand(s) is delivered to the secretary, the person(s) signing the demand(s) may set the time and place of the meeting and give notice, pursuant to the terms of these Bylaws. Any meeting called under this section will be conducted by the president of the Board, or in their absence, a person chosen by a majority of the Board.

Section 4.4 Record Date. The record date for determining Members entitled to notice of any Member meeting is the date of the notice of the meeting, unless the Board determines otherwise.

Section 4.5 Notice of Meetings.

(a) Written notice of each meeting of Members will be given by, or at the direction of, the secretary or person authorized to call the meeting by mailing a copy of the notice, postage prepaid or by hand delivery, or by any means allowed under nonprofit corporation law.

(b) Notice of meetings given to Members must be at least 10 days before but not more than 50 days before the meeting.

(c) Notice of meetings will be provided to each Member entitled to vote. If given by mail, the notice will be addressed to the Member's address or email address last appearing on the Association's books, or supplied by a Member to the Association for the purpose of notice.

(d) The notice may also be physically posted in a conspicuous place in a part of the Community, if possible.

(e) In addition, if electronic means are available, notice may be sent by email to any Owner who requests such delivery and furnishes the Association with their email address at least 24 hours before the meeting.

(f) The notice is to specify the place, day and hour of the meeting and whether the meeting is virtual, over the internet, by conference call or other electronic means, with log-in or participation means to be provided when notice is given or subsequently. In the case of a special meeting, the notice must state the purpose of the meeting.

(g) No matters will be heard nor action adopted at a special meeting except as stated or allowed in the notice.

(h) Notice of an annual meeting need not include a description of the purpose(s) except with respect to:

- (i) an amendment or restatement of the Declaration, Articles of Incorporation, or Bylaws of the Association;
- (ii) any proposal to remove an officer or director from office;
- (iii) any budget changes; or
- (iv) any other purpose for which a statement of purpose is required by law or the Governing Documents.

Section 4.6 Place of Meeting/Virtual Meetings. Member meetings may be held at a place as may be fixed by the Board of Directors and specified in the meeting notice, or may be held virtually, over the internet, by conference call or electronic means. If held at a location, the location should be convenient to the Community. If held virtually, by conference call, or by electronic means, the place of the meeting is deemed to be the place or location of the host of the meeting.

Section 4.7 Quorum.

(a) The presence of 25% of the Members eligible to vote at the beginning of any meeting, in person or by proxy, constitutes a quorum for any action, except as otherwise provided in the Articles of Incorporation, the Declaration, and these Bylaws.

(b) Once a quorum is established for a meeting, it is conclusively presumed to exist until the meeting is adjourned and does not need to be reestablished.

(c) If the required quorum is not present, the Members who are present have power to adjourn the meeting, from time to time, to a later date, until such time as a quorum is present.

Section 4.8 Adjourned and Reconvened Meetings. Any membership meeting may be adjourned, to be reconvened at a later date or time, by vote of the Owners holding a majority of the vote represented at the meeting, regardless of whether a quorum is present. Any business that could have been transacted properly at the original session of the meeting may be transacted at the reconvened session. No additional notice of such reconvened session is required if the original session is adjourned for a period not exceeding 10 days.

Section 4.9 Order of Business. The Board of Directors may establish the order of business and prescribe reasonable rules for the conduct of all Member meetings. Failure to strictly follow Robert's Rules of Order does not invalidate any action taken at a meeting.

Section 4.10 Waiver of Notice. Waiver of notice of a membership meeting is deemed the equivalent of proper notice. Any Member may waive, in writing, any notice of any membership meeting, either before or after such meeting. A Member's attendance at a meeting, whether in person or represented by proxy, or virtually, is deemed a waiver by the Member of improper notice of the date and time of the meeting and of any specific business being conducted at the meeting. The foregoing is not waived if the Member specifically objects to improper notice at the time the meeting is called to order or the Member objects to improper notice of the specific business before the business is put to a vote.

Article 5. Board of Directors

Section 5.1 Number of Directors.

(a) The Association's affairs are governed by a Board of Directors which consists of 3 members, elected or appointed as provided below (the "Board").

(b) In the case where through removal or resignation the total number of Board members is less than 3, the Board is considered properly constituted until the vacancies are filled.

(c) The number of directors may be increased or decreased by amendment of these Bylaws.

Section 5.2 Qualifications of Directors. The following qualifications apply to Owner- elected or appointed Directors. Declarant-appointed Directors are exempt from the following qualifications.

(a) An Owner and/or spouse of an Owner for a Townhome who is eligible to vote, current in payment of assessments, and otherwise in good standing may be elected to or appointed to fill a vacancy on the Board. No more than 2 people from the same household may serve simultaneously on the Board.

(b) If any Townhome is owned by a partnership, corporation, trust or other entity, or by a married person, any officer, partner, trustee or representative of that entity, or their spouse, is eligible to serve as a director and is deemed to be a Member for the purposes of these Bylaws.

(c) Any director who is more than 30 days delinquent in payment of any assessment is not qualified to serve on the Board.

(d) Any director who has unexcused absences from 3 consecutive Board meetings is not qualified to serve on the Board. An absence is excused if the absent Board member notifies the president of the planned absence and the reason for the absence at least 3 days before the meeting, and a majority of the remaining Board members approve the absence as being for a valid purpose.

(e) Any director who is in violation of any provision of the Association's Governing Documents for more than 60 days is not qualified to serve on the Board.

(f) Any director who does not provide information required to comply with any statutory reporting requirements will not be qualified to serve on the Board.

(g) If a director is not qualified to serve on the Board, the director's position may be deemed vacant by that determination being made by a majority of the remaining Directors.

Section 5.3 Term of Office of Board Members. The term of office of the directors shall be three years or until a successor is elected. The terms of directors shall be staggered.

Section 5.4 Election and Appointment of Directors. Notwithstanding any other provision contained herein:

(a) During the Period of Declarant Control, as defined in the Declaration, the Declarant may appoint members of the Board and may remove any such members of the Board appointed by it. Notwithstanding, no later than 60 days after the conveyance of 25% of the Townhomes to Owners other than the Declarant, at least 1 member and not less than 25% of the members of the Board must be elected by Owners other than the Declarant. Not later than 60 days after conveyance of 50% of the Townhomes to Owners other than the Declarant, not less than 33-1/3% of the members of the Board must be elected by Owners other than the Declarant.

(b) No later than the termination of the Period of Declarant Control, the Owners shall elect a Board of at least 3 directors, at least a majority of whom must be Members other than the Declarant or representatives of the Declarant. Thereafter, all directors shall be elected by the Owners or appointed as otherwise provided herein.

Section 5.5 Resignation. Any director may resign at any time by giving written notice to the president, to the secretary or to the Board of Directors stating the effective date of the resignation. If the notice does not contain an effective date, it will be effective upon delivery. Acceptance of a resignation is not necessary to make the resignation effective.

Section 5.6 Removal of Directors. One or more directors or the entire Board, except any directors appointed by the Declarant, may be removed, with or without cause, at a meeting of Members called pursuant to these Bylaws, by a vote of at least 67% of the Members present and entitled to vote at a meeting at which a quorum is present. Notice of a meeting of the Members to remove directors shall set forth that the meeting is being conducted for that purpose and shall be provided to every Member of the Association, including the directors sought to be removed, as provided in these Bylaws. Directors sought to be removed shall have the right to be present at this meeting and shall be given the opportunity to speak to the Members prior to a vote to remove being taken. In the event of removal of one or more directors, a successor shall be elected by the Members at the meeting to serve for the unexpired term of his or her predecessor.

Section 5.7 **Vacancies.** Vacancies on the Board caused by any reason (other than removal) may be filled by appointment by a majority vote of the remaining Board at any time after the occurrence of the vacancy, even though the directors present at that meeting may constitute less than a quorum. Each person so appointed is a director to serve for the remainder of the unexpired term.

Section 5.8 **Compensation.** No director is to receive compensation for any service they may render as a director to the Association. However, any director may be reimbursed for actual expenses incurred in the performance of Association duties. Reasonable food and beverages purchased for Board meetings is not considered compensation.

Section 5.9 **Standard of Conduct for Directors and Officers.**

(a) Each director and officer is to perform their duties as a director or officer in good faith, in a manner the director or officer reasonably believes to be in the Association's best interests, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(b) In the performance of their duties, a director or officer is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(i) one or more officers or employees of the Association whom the director or officer reasonably believes to be reliable and competent in the matters presented;

(ii) legal counsel, professional property manager, public accountant, or other persons as to matters which the director or officer reasonably believes to be within such person's professional or expert competence;

(iii) or a committee of the Association on which the director or officer does not serve if the director reasonably believes the committee merits confidence.

(c) A director or officer is not considered to be acting in good faith if the director or officer has knowledge concerning the matter in question that would cause such reliance to be unwarranted. A director or officer is not liable to the Association or its Members for any action the director or officer takes or omits to take as a director or officer if, in connection with the action or omission, the director or officer performs their duties in compliance with this section.

(d) A director or officer, regardless of title, is not a trustee with respect to the Association or with respect to any property held or administered by the Association.

(e) The Board of Directors has the power and authority to adopt additional reasonable standards or rules of conduct for directors and officers which do not conflict with this section.

Article 6. Meetings of the Board of Directors

Section 6.1 **Location of Meetings and Open Meetings/Virtual Meetings.**

(a) Board meetings may be in person, at a location, or may be virtual and held over the internet. Meetings may also be held by conference call or electronic means.

(b) When held in person, Board meetings are to be held at such location within or convenient to the Community as may be fixed by the Board of Directors.

(c) All Board meetings are to be open to attendance by Members or their designated representatives, as provided by Colorado law.

Section 6.2 Regular Meetings. Regular Board meetings are to be held at the place, virtually, over the internet, by conference call, or by electronic means, at the time as may be fixed by the President or the Board. The Board may set a schedule of regular meetings by resolution, and no further notice is necessary. Agendas for Board meetings are to be made reasonably available for examination by all Members or their representative.

Section 6.3 Special Meetings. Special Board meetings are to be held when called by the president or by any 2 directors. If a notice for a special meeting demanded by 2 or more directors is not given by the Board within 30 days after the date the written demand(s) is delivered to the Board, the directors signing the demand(s) may set the time and place of the meeting or virtually, over the internet, by conference call or by electronic means, and give notice pursuant to the terms of these Bylaws. Only those matters contained in the notice of the special meeting may be discussed, unless all directors are present at the meeting and agree to waive the notice requirement for such other matters. Agendas for special Board meetings are to be made reasonably available as provided above.

Section 6.4 Organizational Meeting of the Board. An organizational meeting of the Board may be held, without notice, immediately following the annual meeting in the same place, virtually, over the internet, by conference call, or by electronic means, or at other date, place or virtually as the directors may determine. The purpose of this organizational meeting is to elect officers and for the transaction of such other business as may come before the meeting.

Section 6.5 Notice of Board Meetings.

(a) Unless the Board has adopted a meeting schedule, written notice of each Board meeting will be given by, or at the direction of, the secretary or person authorized to call the meeting.

(b) The notice will specify the meeting day, hour, and the place (or if held virtually, by conference call, or electronically will include the access details), and in the case of a special meeting, the purpose of the meeting.

(c) Notice may be given by mailing a copy of the notice, postage prepaid, at least 2 days before the meeting, or any other means permitted by the Colorado Revised Nonprofit Corporation Act or allowed under nonprofit corporation law. Other means of distribution of this notice include, but are not limited to, verbal notice (if permitted under nonprofit corporation law), personal delivery, facsimile, and email delivery to each Board member, addressed to the Board member's address last appearing on the Association's books, or supplied by a Board member for the purpose of notice.

Section 6.6 Waiver of Notice. A waiver of notice of any Board meeting, signed by a director, whether before or after the meeting, is the equivalent to the giving of notice of the meeting to the director. A director's attendance at a meeting constitutes waiver of notice of the meeting except when the director attends for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

Section 6.7 Quorum; Voting. A majority of the directors constitutes a quorum for the transaction of business unless there are fewer than 3 directors, in which case all directors must be present to constitute a quorum. One or more directors who participate by means of the internet, telephone or electronic communication are deemed present for establishing a quorum, if all persons participating can hear each other. The votes of a majority of the directors present at a meeting at which a quorum is present constitutes a Board decision unless there are fewer than 3 directors, in which case unanimity of the directors

is required to constitute a Board decision. If at any meeting there is less than a quorum present, a majority of those present may adjourn the meeting.

Section 6.8 Director Proxies. To determine a quorum with respect to a particular issue and for the purposes of casting a vote for or against that issue, a director may execute, in writing, a proxy to be held by another director. The proxy is to specify a "yes," "no," or "abstain" vote on each particular issue for which the proxy was executed. Proxies which do not specify a "yes," "no," or "abstain" vote are not to be counted for the purpose of having a quorum present or as a vote on the particular issue before the Board.

Section 6.9 Action without a Meeting.

(a) The directors have the right to take any action in the absence of a meeting which they could otherwise have taken at a meeting if a notice stating the action to be taken and the time by which a director must respond is transmitted in writing to each director and each director, by the time stated in the notice:

(i) votes in writing for such action; or

(ii) (A) votes in writing against such action, abstains in writing from voting, or fails to respond or vote; and (B) fails to demand in writing that action not be taken without a meeting.

(b) The action is authorized if the number of directors voting in favor of the action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the directors then in office were present and voted. An abstention is not a vote in favor or against an action.

(c) Any action taken under this section has the same effect as though taken at a Board meeting.

(d) All signed written instruments necessary for any action taken pursuant to this section are to be filed with the minutes of the Board meetings.

Article 7. Powers and Duties of the Board of Directors

Section 7.1 Powers and Duties. The Board may act in all instances on the Association's behalf, except as provided in the Declaration, these Bylaws or the Articles of Incorporation. The Board has, subject to the limitations contained in the Declaration, these Bylaws and the Articles of Incorporation, the powers and duties necessary for the administration of the Association's affairs, and for the operation and maintenance of the Community as a first- class residential community, including the following powers and duties:

(a) exercise any other powers conferred by the Governing Documents;

(b) Adopt and amend rules and regulations, including responsible governance policies, procedures and rules and regulations, and including penalties for infraction thereof adopt and amend budgets (subject to any requirements of the Governing Documents);

(c) keep and maintain full and accurate books and records showing all of the Association's receipts, expenses, or disbursements;

(d) collect assessments as provided by the Governing Documents;

(e) employ a managing agent, independent contractors or employees as it deems necessary, and prescribe their duties;

(f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Governing Documents, and in the Association's name, on behalf of the Association or 2 or more Owners, on matters affecting the Community, except as to Excluded Claims. As to Excluded Claims, the terms of the Declaration control and must first be complied with.

(g) make contracts, administer financial accounts and incur liabilities in the Association's name;

(h) acquire and hold in the Association's name and in the ordinary course of business, any right, title or interest to real estate;

(i) with the approval of Owners holding at least 67% of the Association vote, convey Common Elements or subject Common Elements to a security interest;

(j) grant easements, leases, licenses, or concessions through or over the Common Elements;

(k) borrow funds and secure loans by granting an interest in future assessments in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the recorded Declaration and these Bylaws, and to execute all such instruments evidencing the debt necessary, subject to any requirements in the Governing Documents;

(l) provide for the indemnification of the Association's directors and any person serving without compensation at the Association's request, and maintain professional liability insurance;

(m) supervise all persons acting on the Association's behalf of and/or at the Association's direction;

(n) procure and maintain insurance as set forth in the Governing Documents;

(o) cause all persons having fiscal responsibilities for the Association's assets to be insured and/or bonded, as it may deem appropriate;

(p) appoint such committees and committee members as deemed appropriate in carrying out its purposes. Committees shall have authority to act only to the extent designated in the Governing Documents or delegated by the Board. The Board shall also have the power to remove any and all committee members with or without cause and to terminate any such committee; and

(q) exercise for the Association all powers, duties, rights and obligations in or delegated to the Association and not reserved to the membership by other provisions of the Governing Documents or Colorado law.

Section 7.2 No Waiver. The omission or failure of the Association or an Owner to enforce the covenants, conditions, easements, uses, limitations, obligations, or other provisions of the Governing Documents shall not constitute or be deemed a waiver, modification, or release thereof, and the Board or the managing agent shall have the right to enforce the same at any time.

Section 7.3 Managing Agent or Bookkeeper. The Board may employ a managing agent or bookkeeper for the Community, at a compensation established by the Board, to perform duties and services authorized by the Board. Regardless of any delegation to a managing agent, directors are not relieved of responsibilities under the Governing Documents or Colorado law.

Article 8. Officers and Duties

Section 8.1 Designation and Qualification. The Association's officers consist of a president, one or more vice-presidents, a secretary, a treasurer and any other officers and assistant officers the Board deems necessary. The president and vice president must be directors. Except for the offices of secretary and treasurer, which may be held by the same person, no person may hold more than one office simultaneously.

Section 8.2 Election and Terms of Office. During the Period of Declarant Control, the Declarant may appoint and remove the officers of the Association. Thereafter, the officers shall be elected by the Board for one year terms at the first meeting of the Board following each annual meeting of the Members. Each officer is to serve until a successor is elected, the Board removes the officer, or the officer resigns.

Section 8.3 Resignation and Removal of Officers. Except for officers appointed by the Declarant, any officer may be removed from office with or without cause by a majority of the Board. Any officer may resign at any time by giving written notice to the Board. A resignation shall take effect on the date of receipt of a notice or at any later time specified therein. Acceptance of a resignation shall not be necessary to make it effective.

Section 8.4 Vacancies. During the Period of Declarant Control, a vacancy in any office appointed by the Declarant may be filled by the Declarant. Thereafter, a vacancy in any office may be filled by appointment by majority vote of the Board. The officer appointed to the vacancy shall serve for the remainder of the term of the officer replaced.

Section 8.5 Duties of Officers. The duties of the officers are as follows:

(a) **President.** The president is the chief executive officer and has all of the general powers and duties which are incident to the office of president of a Colorado nonprofit corporation, including, but not limited to, the following: preside at all Board and Member meetings; see that Board decisions and resolutions are carried out; sign all contracts, leases and other written instruments; direct, supervise, coordinate and have general control over the Association's day-to-day affairs.

(b) **Vice President.** The vice president is to take the place of the president and perform the president's duties whenever the president is absent or unable to act and is to perform other duties imposed by the Board of Directors. If neither the president nor the vice president is able to act, the Board of Directors will appoint another director to act in the place of the president on an interim basis.

(c) **Secretary.** The secretary will record the votes and maintain the minutes of all Board and Member meetings; serve notice of Board and Members meetings; keep appropriate current records showing the Members of the Association together with their addresses, and perform such other duties incident to the office of secretary or as required by the Board.

(d) **Treasurer.** The treasurer will be responsible for the receipt, deposit and disbursement of Association funds and securities and for maintenance of full and accurate financial records; will prepare an annual budget and a statement of income and expenditures to be presented to the membership; and deliver a copy of each to the Members. The treasurer will perform other duties incident to the office of treasurer or as may be assigned by the Board of Directors.

(e) **Delegation.** The duties of any officer may be delegated to the managing agent or another Board member; provided, however, the officer is not relieved of any responsibility under this section or under Colorado law.

Article 9. Association Documents and Records

Section 9.1 Records and the Right to Inspect Records. The Association or its managing agent, if any, is to keep and maintain records as required by Colorado law. The Association's records are subject to inspection and copying by any Member, at the Member's expense, in accordance with the Association's responsible governance policy, if any, regarding inspection and copying of records. The policy may require advance notice of inspection, specify hours and days of the week during which inspection is permitted, establish a reasonable maximum time limit for any inspection session, and establish reasonable fees for copies.

Section 9.2 Minutes. Minutes or any similar record of Board and Member meetings, when signed by the secretary or acting secretary of the meeting, are presumed to truthfully evidence the matters set forth in the minutes. A recitation in the minutes that notice of the meeting was properly given is prima facie evidence that the notice was given.

Section 9.3 Examination. The books, records and papers of the Association shall at all times, during normal business hours, be subject to inspection and copying by any Member, at his or her expense, to the extent provided by Colorado law. The Association may charge reasonable costs for copying or producing any of the records.

Article 10. Indemnification

Section 10.1 Obligation to Indemnify.

(a) The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative; by reason of the fact that the person is or was a director, officer or committee member of the Association; provided the person is or was serving at the request of the Association in such capacity; and provided that the person:

- (i) Acted in good faith, and;
- (ii) In a manner that the person reasonably believed to be in the best interests of the Association, and;
- (iii) With respect to any claimed criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

The termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner reasonably believed to be in the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(b) Notwithstanding anything in subsection 10.1(a) above, unless a court of competent jurisdiction determines that, in view of all circumstances of the case, the person is fairly and reasonably entitled to expenses, no indemnification shall be made:

(i) In connection with a proceeding by or in the right of the Association where the person has been adjudged to be liable to the Association; or

(ii) In connection with any other proceeding charging that the person received an improper personal benefit, whether or not involving action in an official capacity, the person has been adjudged liable on the basis the person received an improper personal benefit.

(c) To the extent that the person has been wholly successful on the merits in defense of any action, suit or proceeding as described above, the person shall be indemnified against actual and reasonable expenses (including expert witness fees, attorney fees and costs) incurred in connection with the action, suit or proceeding.

Section 10.2 Determination Required.

(a) The Board shall determine whether the person requesting indemnification has met the applicable standard of conduct set forth above. The determination shall be made by the Board by a majority vote of a quorum consisting of those members of the Board who were not parties to the action suit or proceeding.

(b) If a quorum cannot be obtained as contemplated above or if a quorum has been obtained and the Board so directs, a determination may be made, at the discretion of the Board, by:

(i) Independent legal counsel selected by a majority of the full Board; or

(ii) By the Members, but Members who are also at the same time seeking indemnification may not vote on the determination.

Section 10.3 Payment in Advance of Final Disposition. The Association shall pay for or reimburse the reasonable expenses as described above in advance of final disposition of the action, suit or proceeding if the person requesting indemnification provides the Board with:

(a) A written affirmation of that person's good faith belief that he or she has met the standard of conduct described above and;

(b) A written statement that the person shall repay the advance if it is ultimately determined that he or she did not meet the standard of conduct described above.

Section 10.4 Directors and Officers Insurance. The Association will purchase and maintain insurance on behalf of any person who is or was a member of the Board of Directors, the manager, committee members, or anyone acting at the direction of the Board covering defense and liability expenses arising out of any action, suit or proceeding asserted against the person by virtue of the person's actions on behalf of the Association or at the direction of the Board, whether or not the Association would have the power to indemnify the person against liability under provisions of this Article.

Article 11. Miscellaneous

Section 11.1 Bylaw Amendments.

(a) These Bylaws may be amended by:

(i) The affirmative vote of a majority of the members of the Board at a duly constituted meeting; provided, however, no amendment shall be made to the quorum requirement set forth in these Bylaws, and no amendment to the qualifications, powers and duties or terms of directors may be made without the affirmative vote of a majority of the Members present, in person or by proxy, at a regular or special meeting of the Members at which a quorum, as set forth in these Bylaws, is present; or

(ii) The affirmative vote of Members holding a majority of a quorum of the votes in the Association voting in person or by proxy at a regular or special meeting of the Association called for such purpose, provided that notice has been sent to all Members pursuant to these Bylaws, and such notice sets forth that the meeting is being conducted for the purpose of amendment.

(b) Notwithstanding anything to the contrary set forth in these Bylaws, these Bylaws may be amended by the Board, without Member approval, to comply with any statutory or judicial requirements.

Section 11.2 Electronic Communications.

(a) Permissive.

(i) Whenever the Governing Documents require that a document, record or instrument be “written” or “in writing,” the requirement is deemed satisfied by an electronic record.

(ii) Whenever the Governing Documents require a signature on a document, record or instrument, an electronic signature satisfies that requirement only if: (i) the electronic signature is easily recognizable as a secure electronic signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (ii) the Board of Directors reasonably believes that the signatory affixed the electronic signature with the intent to sign the electronic document, and that the electronic document has not been modified since the signature was affixed.

(b) Verification and Liability for Falsification. The Board of Directors may require reasonable verification of any electronic signature, document, record or instrument. Absent or pending verification, the Board may refuse to accept any electronic signature or electronic record that, in the Board’s sole discretion, is not clearly authentic. Neither the Board of Directors nor the Association are liable to any Owner or any other person for accepting or acting in reliance upon an electronic signature or electronic record that the Board reasonably believes to be authentic, or rejecting any such item which the Board reasonably believes not to be authentic. Any Owner or person who negligently, recklessly or intentionally submits any falsified electronic record or unauthorized electronic signature fully indemnifies the Association for actual damages, reasonable attorneys’ fees actually incurred and expenses incurred as a result of such acts.

Section 11.3 Fiscal Year. The Board has the right to establish and, from time to time, change the fiscal year of the Association.

Section 11.4 Notices. All notices to the Association or the Board will be delivered to the office of the managing agent, or if there is no managing agent, to the Association's office, or to such other address as the Board may designate by written notice to all Owners. Except as otherwise provided, all notices to any Owner are to be mailed to the Owner's address as it appears in the Association's records or given as allowed by applicable nonprofit corporation law. All notices are deemed to have been given when mailed, transmitted or provided, except notices of changes of address, which is deemed to have been given when received.

Section 11.5 Conflicts. In the case of any conflicts between the Declaration and these Bylaws or the Articles of Incorporation, the terms of the Declaration control. In the case of any conflicts between the Articles of Incorporation and these Bylaws, the terms of the Articles of Incorporation control.

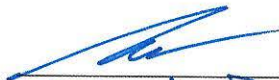
Section 11.6 Waiver. No restriction, condition, obligation or provision contained in these Bylaws is deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 11.7 Interpretation. The provisions of these Bylaws are to be liberally construed to ensure the Community is operated and maintained to optimize and maximize each Member's enjoyment and use.

CERTIFICATION OF ADOPTION

FCAP Confluence, LLC, as the incorporator (the “**Incorporator**”) certify that these Bylaws of Confluence at Two Rivers Community Association, Inc. were duly adopted by the Incorporator of Confluence at Two Rivers Community Association, Inc. in accordance with § 7-122-106(1), C.R.S., on November ___, 2025.

FCAP Confluence, LLC

By: 
Name: Michael Pearson
Title: Manager

Handwritten text, possibly a signature or name, located in the upper left quadrant of the page.



Eagle County Clerk and Recorder

Becky Close

PO Box 537
500 Broadway #101
Eagle, Colorado 81631

292094

CUSTOMER INFORMATION	TRANSACTION INFORMATION	PAYMENT SUMMARY
	Transaction #: 292094	Total Fees: \$43.00
	Receipt #: 202515711	Total Payments: \$43.00
	Cashier Date: 11/10/25 12:37	Balance Due: \$0.00
	Cashier By: jsalaz	
	Print Date: 11/10/2025 12:38:29	

1 Payment
Over Counter Credit Card \$43.00

1 Official Record
COVENANTS Document #: 202515275 Pages: 55 Date: 11/10/2025 24:37:41 From: CONFLUENCE AT TWO RIVERS To: FCAP CONFLUENCE

Fees: ERTB State (ERTB)	\$2.00
Fees: Recording Fees	\$40.00
Fees: Tech County Surcharge	\$1.00

Eagle County, CO

202515275

Becky Close

11/10/2025

Pgs: 55

12:37:41 PM

REC: \$43.00

DOC: \$0.00

Declaration for Confluence at Two Rivers

A planned Community subject to the Colorado Common Interest Ownership Act

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Declaration
for
Confluence at Two Rivers
a Planned Community subject to the Colorado Common Interest Ownership Act

This Declaration is made by FCAP Confluence, LLC, a Colorado limited liability company ("Declarant").

Recitals:

A. Declarant is the owner of certain real property located in the County of Eagle, State of Colorado, which is more particularly described as set forth in Exhibit A attached and by reference made a part of this Declaration.

B. Declarant desires to create a planned Community on the real property described in Exhibit A in which portions of such real estate are designated for residential use (as provided for in this Declaration) and portions are designated or may be designated as Common Elements.

C. The purposes of Declarant and of this Declaration include, but are not limited to the following:

- to create the planned community known as Confluence at Two Rivers;
- to preserve and enhance the value and desirability of the Real Estate and the Community; and
- to serve the purposes set forth in this Declaration and the other Governing Documents of the Community.

Declarant has caused the "Confluence at Two Rivers Community Association, Inc.," a Colorado nonprofit corporation, to be incorporated under the laws of the State of Colorado as the owners' association, for the purpose of exercising the functions as set forth in this Declaration.

ARTICLE 1. Submission / Defined Terms

Section 1.1 Submission of Real Estate.

(a) Declarant submits the real property described in Exhibit A, together with all exceptions to title described in Exhibit B, including easements, rights, and appurtenances and the improvements erected or to be erected, together with all easements, rights, and appurtenances (including non-severed water and mineral rights) (collectively, the "Real Estate") to the terms and conditions of this Declaration.

(b) Declarant declares that:

(i) all of the Real Estate is held or sold, and conveyed subject to the easements, restrictions, covenants, and conditions in this Declaration;

(ii) this Declaration is made for the purpose of protecting the value and desirability of the Real Estate;

(iii) this Declaration is made to be subject to CCIOA;

(iv) this Declaration encumbers the Real Estate regardless of ownership and thus runs with the land;

(v) this Declaration is binding on all parties having any right, title or interest in the Real Estate, their heirs, legal representatives, successors, and assigns; and

(vi) this Declaration inures to the benefit and burden of each Owner and the Association.

Section 1.2 Community Is Subject to CCIOA. The Community is subject to all of the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, et seq., as may be amended.

Section 1.3 Defined Terms. Each capitalized term in this Declaration has the meaning specified or used in this Declaration, as defined below, or as the context provides or requires otherwise.

(a) **Allocated Interests.** The votes in the Association and the Common Expense liability allocated to each Townhome pursuant to the terms of this Declaration and as initially set forth in **Exhibit C.** The Allocated Interest for each Townhome is a fraction, the numerator of which is one and the denominator of which is the total number of all Townhomes in the Community. Each Townhome is allocated one vote in the Association.

(b) **Articles of Incorporation.** The Articles of Incorporation for the Association filed with the Colorado Secretary of State, as amended from time to time.

(c) **Assessment(s).** Common Expense Assessments and any other assessment as allowed or provided for by this Declaration and under the limited lien priority provisions of CCIOA.

(d) **Association.** Confluence at Two Rivers Community Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

(e) **Board or Board of Directors.** The body responsible for management and operation of the Association. The term has the same meaning as executive board as defined in the Act.

(f) **Building(s).** The buildings constructed or to be constructed by Declarant on the Real Estate.

(g) **Bylaws.** The Bylaws of the Association, as amended from time to time.

(h) **CCIOA or Act.** The Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, et seq., as amended from time to time. The Act applies as provided for by this Declaration.

(i) **Common Elements.** All of the Real Estate owned by the Association within the Community except the Townhomes and the real property upon which the Townhomes are constructed.

(j) Common Expense Assessment. In addition to the definition included in the Act, the term Common Expense Assessment means the funds required to be paid by each Owner in payment of such Owner's liability for, without limitation, the following items:

(i) an Owner's Allocated Interest in the Common Expenses;

(ii) late charges, attorneys' fees, fines, and interest charged by the Association at the rate as determined by the Board;

(iii) charges against a particular Owner and/or Townhome for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any violation of the Governing Documents by an Owner or Related Users ("Individual Purpose Assessment");

(iv) charges levied against an Owner pursuant to the Declaration due to Owner's negligence or misconduct ("Default Assessment"); and

(v) any sums permitted by the Governing Documents to be assessed against a particular Owner or Townhome.

(k) Common Expenses. As used in this Declaration, this term includes all charges levied by and for the benefit of the Association pursuant to the Governing Documents, including, but not limited to: annual costs and expenses of the Association resulting from owning, leasing, using, maintaining, or otherwise controlling any real or personal property, or sharing in the costs of operating any part of the Community, the Common Elements, or those portions of Townhome Exteriors that are maintained by the Association pursuant to Section 5.2; and expenses incurred by the Association pursuant to this Declaration in amounts determined by the Board of the Association, and as budgeted to fund reserves.

(l) Community. Confluence at Two Rivers, the planned Community created by this Declaration.

(m) County. Eagle County, Colorado.

(n) Declaration. This Declaration and any and all duly executed amendments, supplements, or additions to this Declaration recorded in the office of the Clerk and Recorder of Eagle County, Colorado, and including any maps or plats recorded in connection with the Community.

(o) Declarant. The "Declarant" named in this Declaration and/or any successor and/or assignee designated by written notice or assignment executed by a Declarant and by the transferee and recorded (to the extent any rights or powers of Declarant are transferred or assigned to such transferee).

(p) Design Guidelines. Collective reference to all written design and development guidelines, policies and procedures, application and review procedures and fee schedules, and all architectural controls which apply to renovations or remodeling of any Townhome, as enacted by Declarant and/or Board of Directors, pursuant to rule-making authority.

(q) Development Rights or Special Declarant Rights. The rights of a declarant under CCIOA, whether expressly stated in this Declaration or not and the rights of Declarant under this Declaration, including control of the Board of the Association.

(r) Excluded Claim(s). Any claim in a civil action, lawsuit or arbitration (other than the arbitration allowed for in this Declaration) related to construction or design of the Buildings, Townhomes, Lots, grading, landscape, Common Elements, drainage within the Community or any improvements constructed or designed by Declarant or the following persons: a contractor, subcontractor, developer, builder, architect, engineer or inspector, or affiliates of any of these, or any person or persons responsible for any part of the construction or design of a Townhome or the Community, including officers, directors, shareholders, members, managers, employees or servants of these persons. Excluded Claim also includes any claims against Declarant or its affiliates or agents or employees of Declarant or its affiliates.

(s) Governing Documents. Collective reference to those documents which govern the operation of the Community and the Association, including: (i) this Declaration; (ii) the Articles of Incorporation; (iii) the Bylaws; (iv) the Rules, regulations, policies and procedures (including Design Guidelines); and (v) the Plat, as one or more of the same may be amended from time to time.

(t) Improvements. Any change to the original Townhome Exterior or Real Estate visible from a neighboring Townhome subsequent to an Owner's acquisition of its interest therein, including as installed within or upon all or a portion of a Townhome.

(u) Limited Common Elements. Any portion of the Real Estate which is either limited to or reserved in this Declaration, on the Plat, or by authorized action of the Association or Declarant, as a common element for the exclusive use and benefit of a Townhome, or is limited to and reserved for the common use of more than one but fewer than all Townhomes.

(v) Lot(s). Those separate parcels shown upon the Plat or any other recorded map or plat affecting the Real Estate.

(w) Mortgage. Any mortgage instrument, deed of trust, or other security instrument duly recorded in the records of the office of the Clerk and Recorder of Eagle County creating a lien on an Owner's ownership interest in a Townhome, together with each and every collateral obligation secured by such instrument. A "First Mortgage" is a Mortgage having priority of record over all other recorded liens against an Owner's ownership interest in a Townhome except the Common Expense Assessment lien of the Association (as allowed under parts of CCIOA made applicable in this Declaration, to allow for limited lien priority of the Association as allowed for under that Act) and governmental liens (made superior by other state statutes).

(x) Mortgagee. A bank, savings and loan association, insurance company, real estate mortgage investment trust, pension fund, an agency of the United States Government (including "VA" or "FHA"), mortgage banker, the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or any other lender generally recognized as an institutional lender, or Declarant, holding a Mortgage. A "First Mortgagee" is a Mortgagee having priority of record over all other recorded liens against an Owner's ownership interest in a Townhome except the Common Expense Assessment lien of the Association (as allowed under parts of CCIOA made applicable in this Declaration, to allow for limited lien priority of the Association as allowed for under that Act) and governmental liens (made superior by other state statutes).

(y) Owner. Any individual, group of individuals, or entity that purchases a Townhome holds a fee interest in and to that portion of the Real Estate upon which such Townhome is constructed.

(z) Party Wall(s). Any wall that is built as a part of the original construction of the Townhomes and placed on or about the horizontal or vertical boundary line between two (2) Townhomes. To the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions apply.

(aa) Period of Declarant Control. The period of time commencing on the date of recordation of this Declaration and expiring on the earlier of: sixty (60) days after conveyance of Townhomes to Owners other than Declarant in seventy-five percent (75%) of the maximum number of Townhomes (as allowed under this Declaration); two (2) years after the last sale of a Townhome by Declarant in the ordinary course of business; or two (2) years after any right to add new real property was last exercised or as surrendered, in writing, by Declarant.

(bb) Plat. That certain site plan or plat for all of the Real Estate recorded in the real property records for Eagle County, Colorado, as the same may be amended from time to time. The "notes" on the various sheets comprising a Plat are incorporated by this reference and are fully enforceable as though set forth in this Declaration.

(cc) Real Estate. The property described in Exhibit A, together with all easements, rights, and appurtenances and the improvements erected or to be erected on the Real Estate, together with all easements, rights, and appurtenances (including non-severed water and mineral rights). All exceptions to title to which the Community is subject to as of the date of this Declaration are recited in Exhibit B.

(dd) Related User. Any person who resides with an Owner within a Townhome; is a guest or invitee of an Owner; is an occupant or tenant of a Townhome; and any family member, guest, invitee or cohabitant of the foregoing.

(ee) Rules or Rules and Regulations. All rules, regulations, policies, and regulations, including by way of example only, use restrictions, Design Guidelines, governance policies, and enforcement enacted by the Board pursuant to this Declaration, the Bylaws and as allowed by law.

(ff) Townhome. A separate ownership interest in a residential townhome and that portion of the Real Estate upon which such townhome is constructed and that shares a Party Wall with part of another townhome and is part of a Building and/or a physical portion of the Community as shown on the Plat or any other recorded map, and all improvements and fixtures contained therein, together with the undivided interest in the Common Elements.

(gg) Townhome Exterior. Townhome Exterior includes items specifically allocated to an Owner to maintain, repair, replace and improve, and includes all exterior surfaces of a Townhome including, but not limited to, all structural components, foundations, windows, doors, door and window trim, window wells, exterior siding, stucco, brick, roofs, roofing surfaces and shingles and roof lining, gutters, downspouts, drain spouts, flues, front patios, balconies and deck areas (if any), exterior screen and glass surfaces, external vents, sidewalks, concrete on the exterior of the Townhome and any Improvements added by an Owner.

ARTICLE 2. Real Estate, Townhomes, and Common Elements

Section 2.1 Real Estate. The Community is a planned residential townhome community located in Eagle County, Colorado. The Real Estate of the Community is described in Exhibit A. All exceptions to title to which the Community is presently subject are recited in Exhibit B. In addition, the Community may be subject to other easements or licenses granted pursuant to the Governing Documents, or granted or allowed by authority reserved in any recorded document or established under this Declaration, or in the Act. The Real Estate is subject to Declarant's Development Rights and Special Declarant Rights as provided for in this Declaration.

Section 2.2 Number of Townhomes. The initial maximum number of Townhomes is forty-six (46).

Section 2.3 Identification of Townhomes / Description of Townhomes. A contract for the sale or assignment of a Townhome, written prior to recordation of the Plat and Declaration, may legally describe a Townhome by its identifying unit designation followed by the words "Confluence at Two Rivers", with further reference to the Declaration and Plat to be recorded. Subsequent to the recordation of the Plat and Declaration, a contract for the sale or assignment of a Townhome may legally describe a Townhome by its identifying unit designation followed by the words "Confluence at Two Rivers", with further reference to the recorded Plat and the recorded Declaration. An Owner's undivided interest in the Common Elements shall not be separated from the Townhome to which it is appurtenant and shall be deemed conveyed or encumbered with that Townhome without specific reference thereto in the legal description and instrument conveying or encumbering said Townhome which may only refer to the title to that Townhome. The reference to the Plat or Declaration in any instrument shall be deemed to include any supplements or amendments to the Plat or Declaration without specific reference thereto.

Section 2.4 Initial Common and/or Limited Common Elements.

(a) The Common Elements shall remain undivided, and no Owner or any other person shall bring any action for partition or division of the Common Elements.

(b) Common Elements may be added or modified, as allowed under this Declaration. See Exhibit D.

(c) There are no Initial Limited Common Elements in the Community. See Exhibit E.

(d) Limited Common Elements may be added or modified, as allowed under this Declaration. See Exhibit F and other provisions of this Declaration.

(e) Until added, areas that may become Common Elements will be maintained by Declarant.

(f) Once the initial improvements of Declarant on the Common Elements are constructed and in use by any Owner who acquired a Townhome from Declarant, those Common Elements are to be maintained by the Association. The Association, by the terms of this Declaration, agrees to maintain the Common Elements.

(g) Declarant has the right to perform maintenance on Common Elements, if it desires, inclusive of any landscaping that may extend into the boundaries of any Townhome. This maintenance may extend through any warranty periods provided by vendors to Declarant on landscape or other improvements made to the Common Elements.

(h) The Common Elements may be regulated by the Association, including the determination of the Board to use the Common Elements in manners deemed by the Board to be consistent with the purposes of this Declaration (as set forth in this Declaration).

(i) Portions of the Common Elements may be designated as a Limited Common Element to certain Townhomes.

(j) Easements for use and/or access are established across the areas that are, and also that may become, Common Elements, which easements are for the benefit of the Owners. Once the areas that may become Common Elements are constructed or improved by Declarant and in use by the Owners, those areas are to be covered by the general liability insurance maintained by the Association as provided elsewhere in this Declaration.

(k) The Common Elements or Limited Common Elements, if any, may be changed, from time to time, by Declarant or by the Board, pursuant to the provisions in this Declaration.

Section 2.5 Radon Notice and Disclaimer. Owners acknowledge that Declarant and this Declaration disclose that radon gas contamination is a naturally occurring threat throughout the Rocky Mountain region and that potential radon contamination in a Townhome can be mitigated through modifications to a Townhome. By acquiring a Townhome, each Owner acknowledges they have assumed all risk for any potential radon contamination and that should radon contamination be discovered by an Owner or resident at any time, it is an Owner or resident's sole obligation to correct the radon contamination. Declarant and the Association have made no investigation to determine whether the Real Estate is affected by radon. Each Owner and resident acknowledge that neither Declarant nor the Association has made any representations or warranties, express or implied, concerning the presence or absence of radon within the Real Estate or any Townhome or the soils beneath or adjacent to any Townhome. Each Owner releases Declarant and the Association from any and all liabilities and claims with respect to radon gas.

Section 2.6 Concrete Finishes.

(a) Each Owner acknowledges and accepts that there may be concrete finishes on improvements of or serving a Townhome and that those areas, as constructed with concrete, will settle and crack.

(b) When natural materials like concrete are used, natural variability, not uniformity, is to be expected as the surface of the concrete matures. Each Owner and the Association waives and releases Declarant from variability in concrete finishes.

(c) Declarant and the Association are not responsible for and do not warranty interior or exterior concrete, including, but not limited to, cracking, discoloration, spalling, settlement, heaving and/or movement.

(d) Declarant does not warrant any damage to the Real Estate in the event that proper maintenance is not performed, including the use of ice melting materials (which is not recommended) on any part of the Real Estate.

ARTICLE 3. The Association

Section 3.1 Membership. Every person who is an Owner is subject to this Declaration and is a member of the Association. Membership is appurtenant to and may not be separated from ownership of a Townhome. Ownership of such Townhome is the sole qualification for such membership. Where more than

one person holds an ownership interest in a Townhome, all such persons are members of the Association; provided, however, regardless of the number of owners of a Townhome, each Townhome shall only be allocated one vote in the Association.

Section 3.2 General Purposes, Powers, Authority and Restrictions on and of the Association.

(a) The Association, acting solely through its Board of Directors, is to perform functions and manage the Community, including its business affairs, as provided in the Governing Documents, so as to protect the value and desirability of the Real Estate and to further the interests of the Owners and Related Users.

(b) Any purchaser of a Townhome is deemed to have assented to, ratified and approved this Declaration and the terms of this Declaration.

(c) The Association has all powers necessary or desirable to effectuate the purposes of the Community and the Association.

(d) The Association is governed by the Governing Documents and other applicable laws.

(e) The Board of Directors may, by written resolution, delegate authority to a manager, managing agent or bookkeeper for the Association, provided no such delegation relieves the Board of final responsibility.

(f) The Association may not commence an arbitration on an Excluded Claim without first complying with the terms of other provisions of this Declaration.

(g) The Association may not sue on an Excluded Claim.

Section 3.3 Association Services and/or Utilities.

(a) The Association may provide services and utilities to any portion of the Real Estate or Townhomes as it determines.

(b) Water and sewer utilities may initially be provided by the Association to the Real Estate and Townhomes by one or more meters or facilities allocated by local government to the Association.

Section 3.4 Association Accounting, Reserve Funds and Surplus.

(a) The Association is to keep books and financials as is typical for homeowner associations.

(b) The Association may establish a reserve fund for the maintenance, repair and replacement of those items the Association is required to maintain. The Association is not required by this Declaration to establish a reserve fund.

(c) Reserve funds may be funded through the monthly payments of the annual Common Expense Assessments or through other Assessments.

(d) Any surplus funds derived from Assessments may be transferred to the reserve fund, or may be used for Association operations. The choice may be made in the Board of Directors' sole discretion. By purchase of a Townhome, each Owner directs the Board of Directors to make this determination periodically, as the Board determines.

Section 3.5 Association Agreements / Contracts.

(a) Any agreement for professional management or bookkeeping, or for employment or lease of recreational or parking area facilities entered into during the Period of Declarant Control may not exceed one (1) year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty (30) days' written notice. This provision is based on Section 305 of the Act and provides a period of notice of thirty (30) days, for the benefit of the Association as opposed to the ninety (90) day notice set out as the minimum in the Act. The Association is not bound either directly or indirectly by the foregoing contracts or leases entered into during the Period of Declarant Control unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after at least thirty (30) days' notice to the other party to the contract.

(b) Any other agreements, contracts for services or leases (other than as set forth above or as entered into by the Association by Declarant or an affiliate of Declarant) are not limited to one (1) year and are not subject to the termination rights set forth above and allowed for as to specified contracts by the Act, so long as the contract or lease is bona fide and not unconscionable to the Owners at the time it was entered into under the circumstances then prevailing.

Section 3.6 Promulgation of Rules.

(a) Subject to the terms of this Declaration, the Board may adopt, amend, repeal and enforce Rules and impose fines for violations of the Governing Documents.

(b) The Board may proceed with Rules as it deems desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, and the Townhomes and Real Estate in accordance with the following:

- (i) The Rules are to be reasonable and uniformly applied.
- (ii) Copies of the currently effective Rules must be made available to each Owner upon request.
- (iii) Each Owner must comply with the Rules and see that Related Users comply with the Rules.
- (iv) In the event of conflict between the Rules and this Declaration, this Declaration prevails, but only to the extent that such rule or regulation invalidates a specific provision in this Declaration.

Section 3.7 Open Meetings of the Association and Board of Directors.

(a) All meetings of the Association and the Board of Directors are open to every Owner, or to any person designated by an Owner in writing to the Association as the Owner's representative in advance of a meeting.

(b) All Owners or designated representatives so desiring are permitted to attend, listen, and speak at an appropriate time determined by the Board of Directors during the meeting.

(c) The Board of Directors may place reasonable time restrictions on those persons speaking during the meeting but must permit an Owner or its designated representative to speak before the Board takes formal action on an item under discussion, in addition to any other opportunities to speak.

(d) The Board of Directors may provide for a reasonable limit on the number of persons to speak on each side of an issue.

(e) Upon the final resolution of any matter for which the Board of Directors receives legal advice or that concerns pending or contemplated litigation, the Board may elect to preserve the attorney-client privilege in any appropriate manner, or it may elect to disclose such information, as it deems appropriate.

Section 3.8 Governance Policies. The Association is to adopt and maintain Governance Policies, to guide governance and operation of the Community and the Association and as required by CCIOA.

Section 3.9 Indemnification. To the full extent permitted by law, all officers, members of the Board of Directors and committee members of the Association shall be and are indemnified by the Owners and the Association. This indemnification extends to all expenses and liabilities including attorneys' fees reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer or member of the Board of Directors, or committee member or any settlements of the Association. This indemnification applies whether or not they hold such position at the time such expenses are incurred. In the event such person is adjudged guilty of willful misfeasance or malfeasance in the performance of their duties, this indemnification will then no longer apply and such person is to reimburse the Association.

Section 3.10 Appointment / Removal of Officers / Board Members During the Period of Declarant Control. Declarant has the power and authority, pursuant to the Act and this Declaration, to appoint and remove officers and members of the Board of Directors. This authority extends through the Period of Declarant Control.

Section 3.11 Initial Owner Elections of Board Members.

(a) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the maximum number of Townhomes allowed under this Declaration to Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Owners other than Declarant.

(b) Not later than sixty (60) days after conveyance of fifty percent (50%) of the maximum number of Townhomes allowed under this Declaration to Owners other than Declarant, not less than thirty-three and one-third percent ($33\frac{1}{3}\%$) of the members of the Board of Directors must be elected by Owners other than Declarant.

(c) Upon termination of the Period of Declarant Control, a majority of the Board of Directors must be elected by the Owners as provided for in the Act.

Section 3.12 Contracts of the Association Entered into During the Period of Declarant Control. Contracts of the Association entered into by the Association during the time or Period of Declarant Control may be subject to termination by the Association, once a majority of the Board has been elected by the Owners, as allowed for in the Act.

Section 3.13 Declarant May Relinquish Rights. At any time prior to the end of the Period of Declarant Control, Declarant may relinquish the right to appoint and remove Board members, but may require certain specific actions of the Board of Directors to be approved by Declarant.

ARTICLE 4. Easements

Section 4.1 Easement for Access. Owners have an easement for access to the Townhomes, for pedestrian access and for vehicle access (on such roads and parking areas as may be constructed) on the properties owned by Declarant and described in Exhibit E. All or part of those properties may become Common Elements when and as determined by Declarant. Owners fully assume, on behalf of Owner and Related Guests, all risks associated with the use of the access easement and all liability for any damage or injury to any person or thing as a result of such use. Upon the request of Declarant, Owner shall also immediately reimburse Declarant for any expenses that Declarant incurs related to any damage or injury to any person or improvement as a result of any negligent use or misuse of the access easement by Owner or Related Guests. Declarant shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of Declarant or its agents or employees. **DECLARANT SHALL NOT BE LIABLE TO OWNERS, RELATED GUESTS OR ANY OWNER'S FAMILY MEMBER OR OTHER INVITEE FOR INJURY OR DAMAGE CAUSED BY ANY LATENT CONDITION OF SUCH AREAS OR CAUSED BY THE ELEMENTS OR BY OTHER RESIDENTS OR PERSONS.**

Section 4.2 Easement for Utilities and Drainage.

(a) Each and every Townhome is subject to an easement for installing, replacing, repairing, and maintaining common water, irrigation, sewer, drainage, electricity, cable, dish or satellite antennas and/or other utility lines/utilities and for any utility boundary fencing.

(b) Utilities serving any Townhome or Common Elements may pass through other portions of the Real Estate, which is burdened with this easement.

(c) By virtue of these easements, it is expressly permissible for Declarant or the Association or the utility companies, municipalities or other parties supplying such utility service to erect and maintain the necessary equipment within the Real Estate and to affix, repair and maintain equipment, irrigation lines, water and sewer pipes, gas, electric and telephone wires, circuits, conduits and meters.

(d) These easements and related obligations and duties are appurtenant to and pass with the title to each Townhome.

(e) Declarant has the reserved right to establish easements to serve the Community or the properties described in Exhibit A. In this regard, any easements given of Declarant subsequent to this Declaration or any Plat being recorded are confirmed and expressly included in the Community and made subject to this Declaration.

Section 4.3 Easement for Encroachments. If any portion of a Townhome encroaches upon any Common Element or adjoining Townhome, a valid easement for such encroachment and for the

maintenance of same, shall and does exist. Similarly, if any portion of the Common Elements encroaches upon a Townhome, a valid easement for the encroachment and for the maintenance of same shall and does exist. Such encroachments and easements are not considered or determined to be encumbrances either on the Common Elements or any Townhomes affected. Further, such easements are deemed to run with the land upon which the improvements may be found.

Section 4.4 Easements for the Association and Each Owner. The Real Estate is subject to an easement in favor of Declarant or the Association (including its agents, employees and contractors) and to the adjacent Owner, to allow for their performance of obligations under this Declaration or under any of the other Governing Documents.

Section 4.5 Emergency Easements. A nonexclusive easement for ingress and egress is granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or subsequently servicing the Community, to enter upon any part of the Community in the performance of their duties.

Section 4.6 Perimeter Easements. Easements are given by all Owners to Declarant and to the Association for the placement or existence of any boundary fences and/or walls, if any, and for any boundary improvements. These easements include the right and easement, but not the obligation, of the Association to maintain either the boundary fence or any boundary line improvement or wall.

Section 4.7 Warranty, Repair and Construction Easement. Declarant and its assignees have the right to perform warranty work, repairs and complete construction on the Common Elements and the Real Estate, including after sale of a Townhome to an Owner. This includes the right to control such work and repairs, along with a right of access, until completion. These rights of Declarant are not to be construed as Development Rights or Special Declarant Rights or other rights allowed for under CCIOA, but rather, as rights independent of CCIOA, based on common law.

Section 4.8 Owners' Easements of Enjoyment.

(a) Every Owner has a right and easement for access to their Townhome by this Declaration and through the Association.

(b) Every Owner also has the right and easement of enjoyment in and to the Common Elements of this Community.

(c) These easements are appurtenant to and pass with title to every Townhome, subject to the following provisions:

(i) The right of the Association to promulgate and publish Rules with which each Owner and their Related Users must strictly comply.

(ii) The right of the Association to suspend the voting rights of an Owner for any period during which any Assessment against their Townhome remains unpaid, and for a period not to exceed sixty (60) days for any infraction of the Rules.

(iii) The right, power, and authority of the Association to grant any easement, right-of-way, license, lease, dedication, transfer, or conveyance or grant of any similar interest affecting the Common Elements, to the extent permitted by the Act.

(iv) The right of the Association to close or limit the use of the Common Elements while maintaining, repairing, and making replacements.

(v) The rights of the Association as set forth in this Declaration and other Governing Documents for the Community.

(vi) The Development Rights and Special Declarant Rights of Declarant reserved in this Declaration.

(vii) The obligation of the Association to maintain general liability insurance on areas that may become Common Elements after those areas are improved by Declarant and in use by Owners.

Section 4.9 Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Elements to Related Users.

ARTICLE 5. Maintenance

Section 5.1 Scope of Association Maintenance and other Responsibilities. The Board of Directors of the Association determines the specifications, scope, extent, nature and parameters of the Association's maintenance and other responsibilities.

Section 5.2 Limited Snow Removal. The Association has sole control over and assumes the cost of limited snow clearing on the Real Estate from the front-door walkway (i.e., the sidewalk located in the front of a Townhome from the back of the curb of the private street to the base of the bottom step of the front door stoop). For snow events of less than two inches (2"), each Owner and/or their Related User is responsible for snow clearing on their front-door walkway or other sidewalks. Ice melt products are prohibited for use by the Association or any Owner or resident. Only sand is allowed on concrete for treatment of ice.

Section 5.3 No Association Maintenance, Repair, Replacement or Improvement of Townhome Exteriors. Maintenance, repair, replacement and improvement of Townhome Exteriors (except as to the limited snow clearing described in Section 5.2 of this Declaration) is allocated to each individual Owner as more fully provided in Section 5.10 below.

Section 5.4 Association's Maintenance of Common Elements. The Association is responsible for maintenance, repair, replacement and improvement of the Common Elements, including, but not limited to private roads and streets, parking areas, curbs, sidewalks, drainage, common area lighting, landscaping, retaining walls and a Community perimeter boundary fence. The Association's obligation to maintain all landscaping of the Real Estate and Community is inclusive of any landscaping located within the boundaries of any Townhome outside of the foundation thereof but excluding the maintenance of any Association approved Improvements.

Section 5.5 Utility Maintenance by the Association. The Association will maintain all pipes, lines, ducts, electrical conduits, or other apparatus serving more than one Townhome or which pass through or on another Townhome, including electric utility lines in soffits of the Townhomes.

Section 5.6 Association Service Contracts. The Association will maintain and be responsible for service contracts or providing for:

- (a) trash and recycling; and

(b) other services as determined by the Association, acting through the Board of Directors.

Section 5.7 Chart. The Association may supplement the list of items to be maintained by the Association or Owners by resolution or by a maintenance and insurance chart adopted by the Board.

Section 5.8 Declarant Responsibility Is Limited as to Association Maintenance. Declarant has no responsibility for any actions of the Association or its decisions once Declarant relinquishes control to a Board of Directors elected by Owners.

Section 5.9 Association Maintenance Policy Responsibilities. The Association has full responsibility to ensure proper maintenance policies are in place and are implemented.

Section 5.10 Owner Maintenance and Other Responsibilities.

(a) Except for those maintenance items allocated to the Association in Section 5.2 above, Owners are responsible for the maintenance, repair, replacement and improvement of the Townhome (including maintenance, repair, replacement, and improvement of the interior of the Townhome and all portions of Townhome Exteriors that are not otherwise maintained by the Association pursuant to Section 5.2), and all other improvements located thereon.

(b) Subject to Section 5.11, Owners are responsible for any Party Walls in their Townhome, in conjunction with the other Owner that shares that Party Wall.

(c) Owners are responsible for all utilities, lines, and facilities that serve their Townhome, including, but not limited to, water and sewer, whether located within or outside the Townhome boundary.

(d) Owners are responsible for maintenance, repair, replacement, and improvement of any solar panels on the Townhome Exteriors (installation of which is subject to architectural approval by the Board).

(e) Each Townhome and Townhome Exterior must at all times be kept well maintained, in good repair and replacement, and in a clean, sightly, and wholesome condition.

(f) Trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials are not permitted to remain exposed upon any Townhome so that the same are visible from any neighboring Townhome, Common Element or any street, except as necessary during a period of construction.

(g) The Association and its agents have the authority to enter, replace, maintain, repair and clean up Townhomes which do not conform to the provisions of this Section, and to charge and collect from the Owner of that Townhome all reasonable costs as an Assessment, after not less than two (2) notices, each allowing the Owner thirty (30) days to comply.

Section 5.11 Party Wall Maintenance and Covenants.

(a) An Owner is responsible for any Party Walls in its Townhome, if any; in conjunction with the other Owner that shares a Party Wall. Owners are also responsible for any shared sewer line that services their Townhome located within a boundary line of another Townhome, if any; which sewer lines are to be maintained by the two (2) Owners that share the

sewer line as an additional part of the party wall provisions of this Declaration. The cost of maintenance, repair, alteration, improvement and replacement of each Party Wall, fence, and shared sewer line is to be shared equally by the Owners that share the same.

(b) The right of an Owner to contribution from another Owner pursuant to this Declaration is appurtenant to an Owner's title to the Townhome and such rights and obligations pass to the Owners' successors in title.

(c) If a Party Wall is destroyed or damaged by fire or other casualty, the Association (if it receives insurance proceeds or if it determines) has sole control over the Party Wall. If the Association does not exercise control over a repair and notifies the Owners, then any Owner whose Townhome adjoins such Party Wall may repair or restore it, and the other Owner is to immediately, upon receipt of written demand, pay their portion of such costs to the Owner making such restoration or repair.

(d) Regardless of the above terms and provisions, an Owner who, by his negligent or willful act, causes the Party Wall to be exposed to the elements or damaged in any manner will bear the whole cost of furnishing the necessary protection against such elements or of making the necessary repairs or restoration.

(e) Party Walls may not be penetrated for speaker installation, TV installation (TVs may be mounted on a bracket to a Party Wall) or in a manner larger than appropriate to hang a normal or reasonable size picture, painting, etc.

ARTICLE 6. Covenant for Assessments

Section 6.1 Creation of Association Lien and Personal Obligation to Pay Assessments and

Fees.

(a) Each Owner is deemed to covenant and agree, by purchase of a Townhome, whether or not it is so expressed in any instrument, to pay to the Association Assessments, including Common Expense Assessments, pursuant to the Governing Documents.

(b) Assessments are the personal obligation of each Owner at the time when the Assessment or other charges became due.

(c) The Assessments are a charge on each Townhome and are a continuing lien upon the Townhome against which each such Assessment is made.

(d) If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due.

(e) The personal obligation to pay any past due sums does not pass to a successor in title, unless expressly assumed by them.

(f) All Assessments are to be payable in the amounts specified in the levy, and no offsets or reduction are permitted by any reason, including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration.

Section 6.2 Declarant Assessment Exemption. Until a certificate of occupancy is issued for the initial Townhome, the Townhome is exempt from Assessments of the Association based on benefits provided through assessments. Declarant is obligated, during any period of time Assessments are not imposed on any Townhome, to fund operating deficits of the Association. Declarant is to fund those deficits upon invoice from the Association. Such invoice will be deemed an Assessment of the Association, against all Real Estate then owned by Declarant, collectable and enforceable under the terms of this Declaration.

Section 6.3 Purpose of Common Expense Assessments. In addition to such other purposes as set forth in other parts of this Declaration, Common Expense Assessments are to be used for the purposes of promoting the interests of Owners and Related Users, and in particular:

- (a) To enforce all provisions of the Governing Documents;
- (b) To exercise all rights and powers and to discharge all duties and obligations pursuant to the Governing Documents;
- (c) To discharge all expenses incurred by the Association in the alteration, enhancement, construction, reconstruction, repair, maintenance or replacement of the Common Elements and the limited snow clearing for which it is responsible hereunder, as well as public improvements, if any, for which the Association has responsibility;
- (d) To discharge all expenses incurred by the Association in the alteration, maintenance, repair and replacement of any property the Association may elect to so alter, maintain, repair or replace pursuant to the Governing Documents; and
- (e) To fund any operating deficit or reserves the Association deems necessary to meet its financial obligations.

Section 6.4 Apportionment of Common Expenses.

(a) Except as provided below and elsewhere in this Declaration, all Common Expense Assessments are to be assessed against all Townhomes in an amount equal to the then-current annual estimated expenses (including reserves) of the Association multiplied by the Allocated Interest of each such Townhome.

(b) If any Assessments for utilities of the Association are based on use (for example, for water and/or sewer), to the extent the Association has private sub-meters for these utilities, those Assessments may be based on the sub-metering of the Association.

(c) Regardless of the foregoing:

(i) Common Expenses for services provided by the Association to an individual Townhome or at the request of the Owner of a Townhome may be assessed against that Townhome.

(ii) Any Common Expense for property insurance on the Real Estate, as may be provided by the Association, may be assessed in proportion to risk.

(iii) Fees, charges, taxes, impositions, late charges, fines, attorneys' fees, collection costs and interest charged by the Association against an Owner are enforceable as Common Expense Assessments.

Section 6.5 Default Assessments. In the event that the need for maintenance, repair, or replacement of the Common Elements, any portion of the Common Elements, or any other portion of the Community, including but not limited to those portions of the Townhome Exteriors that the Association maintains pursuant to Section 5.2, is caused by or in any way results from the negligent or willful act or failure to act, or the misconduct of an Owner or an Owner's Related User, then the expenses, costs, and fees incurred by the Association for such maintenance, repair, or replacement is the personal obligation of such Owner. This obligation is considered a "Default Assessment," collectible as an Assessment.

Section 6.6 Annual Assessment / Commencement of Common Expense Assessments.

(a) The Common Expense Assessments are to be made on an annual basis against all Townhomes based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such Assessment year.

(b) Assessments for metered utilities (as water and/or sewer utilities may be sub-metered) or for insurance (based on allocated risks) may be approved without a budget, but rather, based on metered use or allocated risk.

(c) Proposed budgets are to be submitted to the Owners, pursuant to the Act.

(d) A budget proposed by the Board of Directors is deemed adopted unless vetoed by the vote of at least seventy percent (70%) of the Owners.

(e) Assessments are payable in monthly installments or as the Board determines.

(f) Assessments begin at the closing of a sale of a Townhome.

(g) The omission or failure of the Board of Directors to levy the Assessment for any period is not deemed a waiver, modification or a release of the Owners from their obligation to pay.

Section 6.7 Special Assessments. The Association may, at any time, from time to time, determine, levy and assess a Special Assessment applicable to that particular assessment year, provided that the Association complies with the budget process of the Act.

Section 6.8 Lien Priorities.

(a) The Assessment lien of the Association is prior to all other liens and encumbrances on a Townhome, except: liens and encumbrances recorded before the recordation of this Declaration; a First Mortgage on a Townhome (except as allowed by CCIOA with regard to the Association's limited lien priority); and liens for real estate taxes and other governmental assessments or charges against the Townhome.

(b) This section does not affect the priority of mechanics' or materialmen's Liens.

(c) The lien of the Association under this Article is not subject to the provisions of any homestead exemption as allowed by state or federal law.

(d) Sale or transfer of a Townhome does not affect the lien for Assessments except that the sale or transfer of Townhome pursuant to foreclosure of any First Mortgage or any proceeding in lieu of foreclosure, cancellation, or forfeiture, will only extinguish the lien of Assessment as and if provided by applicable law. No such sale, transfer, foreclosure, or any proceeding in lieu of

foreclosure, nor cancellation or forfeiture relieves any Owner from continuing liability for any Assessment charges subsequently becoming due nor from the lien.

Section 6.9 Reserves / Surplus. The Association may establish a reserve fund for the maintenance, repair and replacement of those items the Association is required to maintain that must be periodically maintained, repaired or replaced. Such reserve fund may be funded through the monthly payments of the annual Common Expense Assessments. Any surplus funds derived from Assessments are to be transferred to the reserve fund or used for Association operations in the Board of Directors' sole discretion, and by acceptance of title to a Townhome, each Owner directs the Board of Directors to make this determination periodically, as the Board determines.

Section 6.10 Effect of Non-Payment of Assessments.

(a) Any Assessment provided for in this Declaration or any installment which is not fully paid within fifteen (15) days after the due date bears interest at the rate of interest specified in the collection policy as then in effect, as adopted by the Board of Directors.

(b) The Association may also assess a monthly late charge.

(c) Failure to make payment within the sixty (60) days of the due date may cause the total amount of such Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board.

(d) The Association may bring a lawsuit against any Owner obligated to pay overdue Assessment(s), or monthly or other installments, and may also proceed to foreclose its lien against such Owner's Townhome. A lawsuit by the Association against an Owner to recover a money judgment for unpaid Assessments, or any monthly or other installment, may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien.

(e) The Association's costs of suit, expenses and reasonable attorneys' fees incurred simply by virtue of the failure of the Owner to timely pay Assessments when due, including attorneys' fees and costs for consultation and for preparing and recording any lien notice, and the Association's costs of suit, expenses and reasonable attorneys' fees incurred for any such action and/or foreclosure proceedings, will be included as part of the delinquent Assessment, will be taxed by the court as a part of the costs of such action or foreclosure proceedings, and will be recoverable by the Association from such Owner obligated to pay the same and from the proceeds of the foreclosure of such Owner's Townhome.

(f) Foreclosure, whether completed or commenced but not completed, by the Association of its lien does not estop or otherwise preclude the Association from subsequently foreclosing or commencing an action to foreclose its lien for any subsequent Assessments, or monthly or other installments, which are not fully paid when due.

(g) The Association has the power and right to bid on or purchase the interest of an Owner to any Townhome at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, and to convey or otherwise deal with the same.

(h) The rights of the Association are expressly subordinate to the rights of any First Mortgage as set forth in its First Mortgage to the extent permitted under the Act.

Section 6.11 No Waiver or Abandonment. No Owner may be exempt from liability for payment of the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Townhome against which the Assessments are made.

Section 6.12 This Declaration Is Notice of Association Lien Rights. Recording of the Declaration constitutes record notice and perfection of the lien for Assessments. No further recordation is required. However, the Board of Directors may prepare and record in the real property records of Eagle County, Colorado, a written notice setting forth the amount of any unpaid indebtedness, the name of the Owner, and a description of the Townhome.

Section 6.13 Fees at Closing. The Association requires each Owner of a Townhome (other than Declarant) to make a non-refundable, pro-rated payment to the Association for the month within which the closing occurs as well as a full assessment payment for the month after closing. The Association also requires payment of two (2) months of Assessments as working capital at closing, which sum may be immediately used by the Association as a part of its operation. Payment of working capital does not relieve an Owner from making regular payments of Assessments as the same become due. Owners also are to pay transfer, record change fees and other fees charged by the Association or its managing agent for a closing or refinance.

Section 6.14 Borrowing. The Association has the power to borrow money and assign future income, including the right to assign its right to receive Assessments.

ARTICLE 7. Restrictions on Use, Alienation and Occupancy

Section 7.1 Use Restrictions.

- (a) Initial use restrictions applicable to the Real Estate are set forth in this Declaration.
- (b) The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board of Directors or by an appropriate committee (as appointed by the Board of Directors) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing or must be contained in written guidelines or rules.
- (c) The Board of Directors has absolute authority to promulgate Rules and resolutions for restrictions on use, occupancy or alienation which are not contrary to restrictions or other limitations contained within this Declaration.
- (d) It is expected that Rules will govern the operations of the Community, the Owners and the Association in greater detail than the covenants in this Declaration. A specific provision of a Rule is invalid only to the extent that its strict application would contradict a specific provision in this Declaration.
- (e) The Board of Directors may establish and enforce penalties for infractions.
- (f) Owners are responsible for fines assessed against their Related Users.
- (g) All monetary penalties enforced pursuant to this Declaration or the Rules are collectible as Common Expense Assessments.

Section 7.2 Owners' Acknowledgment.

(a) All Owners and Related Users of Townhomes are given notice that use of each Townhome is limited by provisions of each of the Governing Documents as they may be amended, expanded, and otherwise modified from time to time.

(b) Each Owner, by acceptance of title to a Townhome, acknowledges and agrees that the use and enjoyment and marketability of their interest in the Townhome is affected by these Governing Documents and that all restrictions upon the use and occupancy of a Townhome, may change from time to time.

Section 7.3 Rights of Owners. The Board of Directors may not adopt any restriction on use, alteration or occupancy in violation of the following provisions:

(a) Equal Treatment. Similarly situated Owners and Related Users will be treated similarly.

(b) Speech. The rights of Owners to display noncommercial signs and symbols in or on their Townhomes of the kinds normally displayed in or outside of houses located in single-family residential neighborhoods may not be abridged, except that the Association may adopt reasonable number, size, time, place and manner restrictions for the purpose of minimizing damage, disturbance, clutter and unpleasant aesthetics as allowed by statute.

(c) Religious and Holiday Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations on their Townhomes of the kinds normally displayed in or outside houses located in single-family residential neighborhoods may not be abridged, except that the Association may adopt reasonable time, place and manner restrictions for the purpose of minimizing damage, disturbance, clutter and any unpleasant aesthetics and consistent with state statutes. The Association may restrict seasonal holiday displays. For example, winter season holiday displays may be restricted from the week before Thanksgiving to the week of New Year's Day.

(d) Restriction on Commercial Signs, Flags and Advertising Devices. With the exception of one professionally-lettered "For Sale" sign posted in a window in the interior of a Townhome that is being offered for sale, no commercial sign, flag, poster, billboard, advertising device, banners, balloons, streamers, or display of any kind may be erected or maintained anywhere within the Community unless approved in writing by the Association through the Board of Directors.

(e) Activities within Townhomes. No rule may interfere with legal activities carried on within the confines of Townhomes located on the Real Estate. However, the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that: create monetary costs for the Association or other Owners; create a danger to the health or safety of occupants of other Townhomes; generate excessive noise or traffic; or create unsightly conditions or conditions otherwise disallowed by this Declaration which are visible outside the Townhome or that create an unreasonable source of annoyance to other Owners.

Section 7.4 Use, Occupancy, Covenants and Use Protection. Townhomes within the Community may be primarily used only for residential purposes permitted by the local zoning codes and permits and as allowed for under restrictions in this Declaration. Use of Townhomes for primarily residential uses may not be unreasonably regulated or governed by the Association.

Section 7.5 Restrictions on Townhome Exterior Alterations and Landscaping. Owners may not make alterations to the Townhome Exterior unless such alterations are approved in advance by Declarant until the end of the Period of Declarant Control. After that date, this right is deemed transferred to the Association (if not transferred earlier by Declarant). Declarant or the Association (within the timeframe provided) may establish written guidelines for modifications proposed by Owners. Owners have no right or obligation to maintain any landscape around the Townhome Exteriors or on any other part of the Real Estate.

Section 7.6 Construction of the Community Disclaimers. Declarant has disclosed that the Community that includes the Townhomes is subject to construction of initial Townhomes. Owners acknowledge that initial construction, dust, construction noise, inconveniences and related issues, as well as the density of the greater community are initially impacting the Community. These inconveniences include those from construction labor personnel, storage, port-a-potties, construction debris, parking of construction personnel, and more.

Section 7.7 Restrictions on Fences and Similar Structures. Fences or similar structures may not be constructed or maintained for any Townhome without written approval as required under this Declaration.

Section 7.8 Hot Tub Restrictions. Hot tubs or similar facilities may not be constructed or maintained on a Townhome without written approval as required in this Declaration.

Section 7.9 Pet Covenants and Restrictions.

(a) Owners may keep pets which are common, bona fide household pets, so long as such pets are of the type, number, or combinations allowed by the County or applicable government authority, and by Rules adopted by the Association.

(b) Pets may not be bred or kept for any commercial purpose or kept in such number or in such manner as to be unreasonable or to create a nuisance to any resident.

(c) The Association may adopt reasonable Rules designed to minimize damage and disturbance to other Owners and Related Users, including Rules requiring waste removal, leash controls, noise controls and more.

(d) Nothing in this section of the Declaration prevents the Association from requiring or causing removal of any animal that presents an actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance, which includes excessive barking or pet noises, in the Board of Directors' sole discretion.

(e) An Owner's right to keep household pets is coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages are subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in this Declaration.

(f) Dogs may not be kept on a patio or enclosed outdoor area serving a Townhome if the dogs are excessively barking or otherwise creating a nuisance to neighboring Townhomes.

(g) Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outside a Townhome.

(h) Feces left by pets upon the Common Elements or any other area must be removed promptly by the owner of the pet or the person responsible for the pet. If the pet is staying or visiting the Townhome of an Owner, and the owner of the pet does not promptly remove the feces, the Owner of that Townhome is the person responsible. Promptly is defined to mean within twenty (24) hours or as the Board determines.

(i) The Board of Directors may require any pet that, in the Board's opinion, endangers the health or safety of any Owner or Related User or creates a nuisance or unreasonable disturbance be permanently removed from the Townhome and the Community upon ten (10) days' written notice. If the Owner or Related User fails to comply with such notice, the Board may remove the pet and/or obtain a court order requiring the Owner or Related User to do so.

(j) Any Owner or Related User or guest who keeps or maintains any pet in a Townhome or within the Community is deemed to have agreed to indemnify and hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within a Townhome or in the Community.

(k) Any increased or extraordinary landscape maintenance expenses incurred by the Association as a result of pets maintained within any Townhome may, in the discretion of the Association, be assessed to the Owners of those Townhomes, or the Townhome of an Owner (as the person responsible for the pet, as provided by this Declaration) or as the Board of Directors may determine. These costs can be assessed by the Association, with the action of the Board, as the Board determines in its reasonable discretion.

(l) The Association has all remedies available under the Act and by law related to any violation of these pet covenants and restrictions.

Section 7.10 Restriction on Further Subdivision No Townhome may be further subdivided or separated into smaller parcels by any Owner. No portion consisting of less than all of any Townhome, or any easement or other interest in this Declaration, may be conveyed, transferred or assigned by an Owner. This covenant does not prohibit corrective instruments.

Section 7.11 Vehicular Parking, Storage, RVs and Repairs

(a) Vehicular parking and use of all private access within the Community is subject to the control of the Association.

(b) Parking in fire lanes or handicap aisles (as designated by the Association or as designated by local government or a local fire protection authority) is not permitted.

(c) No activity such as, but not limited to, cleaning, washing, waxing, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat may be performed or conducted within the Community.

(d) The parking of RVs, boats, trailers, ATVs and similar vehicles shall be governed by the Rules of the Association.

(e) The Rules of the Association may further govern the types of vehicles that may be parked or stored within the Community.

(f) Storage, staging or parking of a so-called "tiny house" on any part of the Real Estate or any other property of the Community is prohibited, regardless of whether such structure is constructed with a wheel/axel feature.

Section 7.12 Prohibitions on Increased Costs, Damage, and Noise. Without the prior written consent of the Board of Directors, nothing may be done or kept in a Townhome or on any part of the Real Estate that would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would damage the Community, or increase the Common Expenses.

Section 7.13 Nuisance Covenants and Restrictions. An Owner or Related User may not conduct activities within a Townhome or use any portion of the Real Estate or Townhome in a manner that interferes with or causes disruption to the use and quiet enjoyment of another resident or Related User.

Section 7.14 Noise Covenants and Restrictions. No Owner or Related User may use or allow the use of the Real Estate, the Townhome or the Common Elements in any manner which creates unreasonable noise between the hours of 10:00 p.m. and 7:00 a.m. which can be heard by persons in another Townhome. As to the level of noise that is objectionable, that is in the Board of Directors' sole discretion. No Owner or Related User may unreasonably interfere with the rights, comfort or convenience of any other Owner of their Townhome.

Section 7.15 Noxious and Other Activities.

(a) Noxious, destructive, offensive or unsanitary activity is not allowed to be carried out in a Townhome or within the Community.

(b) No Owner or Related User may use or allow the use of a Townhome or any portion of the Community at any time, in any way, which may endanger the health or property of other occupants, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or Related Users or, in the Board of Directors' discretion, constitute a nuisance.

(c) Smoking of any kind, including vaping, is prohibited on patios, balconies, deck areas (if any), and the Common Elements.

(d) By Rules adopted by the Board, the covenants and restrictions in this section may be further expanded and clarified, including rules related to smoking of any kind.

(e) The intention of this section provision is to grant the Association and aggrieved persons a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Townhomes and of the Community.

(f) Specific unauthorized and unreasonable annoyances or disturbances include, and are not limited to, the following:

(i) any fighting, screaming, shouting, excessively loud talking, whistling, playing of music or television, raucous behavior, or insobriety either outside of a Townhome at any time or within a Townhome if such conduct can be heard in the normal course of activities in any other Townhome(s);

(ii) the use of any TV, stereo, alarm, equipment, or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations either

outside of a Townhome at any time or within a Townhome if such sounds can be heard or vibrations felt in the normal course of activities in any other Townhome(s);

(iii) any threatening or intimidating conduct towards any resident, guest, or pet in the Community;

(iv) any conduct which, in the Board of Directors' reasonable discretion, creates any danger or risk of injury to others or damage to in the Community or which creates any threat to health or safety of any other resident;

(v) any excessively loud play activities either outside of a Townhome at any time or within a Townhome if such conduct can be heard in the normal course of activities in any other Townhome(s);

(vi) any conduct which creates any noxious or offensive odor either outside of a Townhome at any time or within a Townhome if such odors can be detected in the normal course of activities in any other Townhome(s);

(vii) any incessant or excessive pet noises, including dog barking, if such conduct can be heard in the normal course of activities in any other Townhome(s) with the windows and doors of the Townhome closed;

(viii) any construction or similar activities in a Townhome that can be heard in other Townhomes between the hours of 7:00 p.m. and 7:00 a.m.; or

(ix) any similar action or activity outside of a Townhome or within the Community, or which occurs inside a Townhome, but which interferes with the peaceful use and enjoyment of other Townhomes or the Common Elements by any other Owner or Related User.

Section 7.16 Covenants and Restrictions on Marijuana Use, Growing and Distribution.

(a) By Rule adopted by the Board, residents may be precluded from the growth or cultivation of marijuana for personal use by the resident or for use by anyone else. This Rule is expressly allowed to regulate activity and use inside a Townhome due to the pungent odor of growing marijuana and the migration of that odor to neighboring Townhomes.

(b) No Townhome or portion of the Real Estate may be used for the production of hash oil, whether for personal use or distribution. Other marijuana-infused products or edibles may not be produced in a Townhome except for personal use, provided the use otherwise complies with the Governing Documents and Colorado law.

(c) No Owner or Related User may use any portion of a Townhome for the purpose of distributing, marketing, or promoting any business or other promotion related to marijuana.

(d) It is expressly permissible for Owners and Related Users to work for a business that is involved in the growing, distribution, marketing or promotion of marijuana.

(e) The covenants and restrictions in this section may be further expanded and clarified by the Board through Rules.

(f) Owners will be responsible for any costs or damages resulting from a violation of this section.

Section 7.17 Easements Protected. No Owner or Related User may do any work which, in the Board of Directors' reasonable opinion, would impair any easement or other interest in the Real Estate, without prior written consent of the Board of Directors.

Section 7.18 No Waste. No damage to or waste of a Townhome, the Townhome Exterior, the Common Elements, or any part of the Common Elements is permitted by any Owner or Related User. Each Owner and Related User indemnifies and holds the Association and the others harmless against all loss to the Association or others resulting from any such damage or waste caused by such Owner or Related Users.

Section 7.19 No Restrictions on Mortgaging. No Rule may impose any restriction on the right of the Owners to mortgage or otherwise encumber their Townhome, nor is there any requirement for the use of a specific lending institution or particular type of lender.

Section 7.20 Use of Common Elements. There are no obstructions of the Common Elements allowed, nor may anything be kept or stored on any part of the Common Elements without the prior written approval of the Board of Directors, or others with rights in those areas.

Section 7.21 Failure to Maintain.

(a) If the Board of Directors determines that any Owner has failed or refused to discharge properly their obligation with regard to the maintenance, repair, or replacement of items for which they are responsible under this Declaration, then, the Association may give the Owner at least two (2) written notices of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's sole cost and expense, allowing the Owner thirty (30) days to comply.

(b) The notice must set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

(c) If the Board of Directors determines that an emergency exists, the Owner has ten (10) days (or such shorter time as the Board may determine) within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days.

(d) If the Board of Directors determines that: (i) an emergency exists; or (ii) that an Owner has not complied with the demands given by the Association as provided in this Declaration, then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs are to be added to and become a part of the Assessment to which such Owner is subject and become the personal obligation of the Owner. A lien against the Townhome secures these charges and costs, which are collectable as provided in this Declaration for the collection of assessments.

Section 7.22 Rubbish, Trash, and Garbage.

(a) All rubbish, trash, and garbage must be regularly removed from each Townhome and is not allowed to accumulate in a Townhome or on the Real Estate.

(b) No garbage or trash may be placed outside the Townhome, temporarily or otherwise, except on the day of pickup.

(c) Rubbish, trash, recycling and garbage must be disposed of in appropriate sealed bags and either placed in the trash cans or proper receptacles designated by the Board of Directors for collection, and only at times to allow for timely collection by a contractor, or must be removed from the Community.

Section 7.23 No Unsightliness. All unsightly conditions, structures, facilities, equipment, objects and conditions must be enclosed within an approved structure.

Section 7.24 Window Coverings. If window coverings are installed, they must be consistent and used uniformly with like types and colors. The side of the window covering which can be seen from the outside of the building shall be a light color (white, off-white, grey, beige, or a natural wood stain appearance or as approved by the Association) and compliment the colors on the exterior of the building. No reflective materials, sheet, towels, newspapers or other paper material, flags or banners, or any other material that is not a standard window treatment is permitted. A window may be temporarily covered with an alternative material without violating this section, so long as the temporary material is permanently removed within five (5) days.

Section 7.25 Storage Restrictions. To the extent a Townhome has a patio area such patio area may not be used as a storage area. Patio areas may have patio/outdoor furniture and other similar furnishings, provided the furniture is compliant and suitable to the aesthetics and tastes of the Community as determined by the Board of Directors. Pets may not be left unattended in patio areas.

Section 7.26 Grilling Restrictions. Grilling is limited to gas or electric grills. The Association may also establish Rules and regulations related to grilling.

Section 7.27 Antennas and Satellite Dishes.

(a) No satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation may be erected, used or maintained on any portion of the Community, including on any portion of the Real Estate or Townhome; provided, however, that the Association shall have the right to erect, construct and maintain these devices.

(b) The following restrictions and covenants apply to all Owners and residents:

(i) No transmission antenna of any kind may be erected anywhere in the Community, without written approval of the Board of Directors.

(ii) No direct broadcast satellite ("DBS") antenna or multi-channel multi-point distribution service ("MMDS") antenna larger than one meter in diameter shall be placed, allowed, or maintained upon a Townhome.

(iii) DBS and MMDS satellite dishes or antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission rules and the rules and regulations of the Association, both as may be amended from time to time. Such items shall be installed in the least conspicuous location available on the Townhome that permits reception of an acceptable signal. These

items may be precluded if the Association allows for a master antenna for a building or for the entire site.

(iv) If an individual antenna or dish or similar device is installed by an Owner or resident, the Owner is responsible for maintaining that installation and all resulting maintenance due to that installation.

(v) If a Townhome is transferred which includes a satellite dish or antenna, the grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dishes or antennas.

Section 7.28 Solar Panels or Similar Installations. Solar panels or similar installations may be made with written approval of the Board of Directors, or an Architectural or Design Review Committee ("Committee"), if established, as elsewhere provided in this Declaration. Solar panels and other similar installations may also be regulated by local government. An agreement may be required by the Association addressing ongoing maintenance, repair, replacement, and improvement reallocations.

Section 7.29 Reasonable Rights to Develop. No Rule by the Association or Board of Directors may unreasonably impede Declarant's right to develop in accordance with the Plat, any other recorded map and this Declaration.

Section 7.30 Individual Owner Rights of Enforcement. Nothing in this Declaration may be construed to affect the rights of an aggrieved Owner or Related User to proceed individually against a violator of this Declaration for relief from interference with their property or personal rights. The Board of Directors may, in its discretion, require aggrieved individuals to seek redress personally for interference with their rights before the Association intervenes and commences an enforcement action. No claim for any loss, damage or otherwise exists by an aggrieved Owner or Related User against the Association for failure to enforce the provisions of this Declaration if the aggrieved Owner or Related User has not personally pursued all available remedies against the violator for redress provided under Colorado law and complied with dispute resolution Governance Policies of the Association.

Section 7.31 Declarant's Exemption and Uses. It is expressly permissible for Declarant, its assigns, employees and agents to perform such construction activities and to maintain upon portions of the Community such facilities as deemed incidental by Declarant to the construction of Townhomes and development of the Community. This includes exemption from the covenants and restrictions in this Article and also, without limiting the generality of the foregoing, the maintenance of temporary business offices, construction trailers or offices, storage areas, trash bins, portable toilets, construction yards and equipment, any and all signs of any kind, flags, banners, model Townhomes, temporary sales offices, parking areas, lighting facilities and similar or dissimilar uses.

ARTICLE 8. Architectural Approval

Section 8.1 Approval of Improvements Required; Restrictions and Requirements. The approval of the Board or Committee, as may be established by the Board, is required for any Improvement to the Townhome Exterior or that is visible from the exterior of a Townhome.

Section 8.2 Submissions of Plans.

(a) Prior to commencement of work to accomplish any proposed Improvement to a Townhome, the person proposing to make that Improvement (“Applicant”) shall submit to the Board or Committee all documentation required under this Declaration and under any adopted Design Guidelines.

(b) The Board or Committee may require submission of additional plans, specifications, or other information prior to approving or disapproving the proposed Improvement.

(c) Until receipt of all required materials in connection with the proposed Improvement, the Board or Committee may postpone review of any materials submitted for approval. If the Board or Committee requires submission of additional plans, specifications, or other information, the Board or Committee is to provide written notice to the Applicant.

Section 8.3 Criteria for Approval.

(a) The Board or Committee shall exercise its reasonable judgment to determine whether the proposed improvements, construction, alterations or landscaping conform to and harmonize with the existing surroundings, landscaping and structures.

(b) Actions taken by the Board or Committee on matters coming before it are to be in good faith and not arbitrary or capricious.

(c) The standards for approval include, but are not limited to:

(i) conformity and harmony of exterior appearances of structures with neighboring structures, including design compatibility and scale;

(ii) color and materials to be used;

(iii) effective location and impact on nearby Common Elements and Townhomes;

(iv) relation to the Community;

(v) preservation of aesthetic beauty and conformity with the specifications and purposes generally set out in this Declaration and in the Design Guidelines; and

(vi) any other matter deemed to be aesthetically relevant or appropriate.

Section 8.4 Design Guidelines. The Board or Committee may, from time to time, issue, revise, and reissue guidelines, standards, and rules (the “Design Guidelines”) relating to the procedures, materials to be submitted, and fees applicable in connection with the approval of any proposed Improvement.

Section 8.5 Design Review Fee. The Board or Committee may, in the Design Guidelines, provide for the payment or deposit of a fee to accompany each request for approval of any proposed Improvement.

Section 8.6 Authority of Association to Engage Consultants. The Board or Committee has the authority to select and engage professional consultants to assist in reviewing applications and/or to inspect any of the work performed. The cost of any consultants are to be paid by the Owner or Applicant, whether or not the application is approved. Prior to incurring consultant costs, the Association will notify

the Owner of its belief that review and/or inspections by consultants are necessary. The Owner will then have the right to withdraw the submission. The Association may require payment of costs prior to review.

Section 8.7 Decision of Committee. No Improvements may be made without the Board or Committee's approval. Approval is not given by lapse of any time frame. Approval is only given by affirmative action of the Board or Committee.

Section 8.8 Prosecution of Work After Approval. All Improvements approved by the Board or Committee must be accomplished promptly and diligently and in complete conformity with the approved plans and/or conditions of approval, and completed within four (4) months after the date of commencement unless a longer period is granted by the Board or Committee. If a modification to existing construction is not commenced within one (1) year of approval, the approval granted shall automatically lapse.

Section 8.9 Inspection of Work. The Board or Committee or its duly authorized representative has the right to inspect any Improvement prior to or after completion.

Section 8.10 Notice of Noncompliance. If, as a result of inspections or otherwise, the Board or Committee determines that work has been done without obtaining approval of the Board or Committee, or was not performed in accordance with the terms of the approved application, or was not completed within the required time frame, the Board or Committee may notify the Owner in writing of the noncompliance specifying the particulars of the noncompliance.

Section 8.11 Correction of Noncompliance.

(a) The Owner or Applicant must remedy the noncompliance within thirty (30) days after notification by the Board or Committee; provided, however, if a timely appeal to the Board was submitted by the Applicant, the noncompliance may be remedied within forty-five (45) days after denial of the appeal.

(b) If the Owner fails to cure the noncompliance within that period, the Board or Committee may, at its option, record a Notice of Noncompliance against the Townhome(s) on which the noncompliance exists, may enter upon the applicable Townhome and remove the noncompliant Improvement, and/or may otherwise remedy the noncompliance and the Applicant shall reimburse the Association, upon demand, for all expenses incurred. If those expenses are not promptly repaid by the Applicant or Owner to the Association, the Board may levy a specific Assessment against the Owner of the noncompliant Townhome for those costs and expenses. The right of the Association or the Board or Committee to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Association and the Board or Committee may have at law, in equity, or under this Declaration. The Applicant and Owner have no claim for damages or otherwise on account of the entry upon the Townhome and removal of the noncompliant Improvement.

Section 8.12 No Implied Waiver or Estoppel. No action or failure to act by the Board of Directors or Committee shall constitute a waiver or estoppel with respect to future action by the Board of Directors or Committee with respect to any Improvement to property. Specifically, the approval of the Board or Committee of any Improvement shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar Improvement or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement.

Section 8.13 Committee Power to Grant Variances. The Board or Committee may authorize variances from compliance with any of the provisions of the requirements in this Article or the Design Guidelines, including restrictions upon height, size, floor area, or placement of structures or similar

restrictions, when circumstances like topography, natural obstructions, hardship, or aesthetic or environmental conditions may require or allow.

Section 8.14 Meetings of Committee. The Board or Committee may meet from time to time as necessary to perform its duties.

Section 8.15 Non-Liability of Committee Action. No liability may be imposed on the Board or Committee, any member of the Board or Committee, any Committee representative, the Association, or any member of the Board of Directors for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Board or Committee unless due to the willful misconduct of the party held liable. Owners requesting the Improvement are responsible for any safety concerns, structural or otherwise, that the Improvement may raise. Owners are also responsible for verifying the Improvement meets any and all building codes or other governmental laws or regulations. Members of the Board or Committee shall be indemnified by the Association to the same extent as the Board of Directors of the Association, as set forth in the Articles of Incorporation or Bylaws of the Association.

ARTICLE 9. Insurance / Condemnation

Section 9.1 Association's Property Insurance on the Common Elements. Commencing not later than the time of the first conveyance of a Townhome to an Owner other than Declarant, the Association will obtain and maintain at all times thereafter, as a Common Expense, property insurance on the Common Elements, as the Common Elements are completed.

Section 9.2 Owner's Property Insurance on a Townhome. Each Owner will obtain and maintain at all times property insurance on its Townhome and all personal property, fixtures and furnishings, including, without limitation, the interior finished surfaces of perimeter and partition walls, floors, and ceilings within a Townhome (i.e., cabinets, paint, paneling, tile, carpet, and any floor covering) and the Townhome Exterior, in an amount no less than one hundred percent (100%) of the current replacement cost based on the most recent appraisal of the Townhome and the personal property, fixtures and furnishings comprising a part of the Townhome. All insurance policies held by Owners shall also name the Association as an additional insured. The Association shall have no responsibility to insure any Townhome.

Section 9.3 Owners' Additional Insurance Covenants and Requirements.

(a) Every Owner is obligated to obtain and maintain at all times insurance covering those portions of their Townhome to the extent not insured by the policy required by Section 9.2 of this Declaration.

(b) Each Owner is also responsible for insuring all betterments and improvements to their Townhome subsequently added by the Owner or as previously added by the Owner's predecessors-in-title (other than Declarant).

(c) If the Association ever elects to maintain property insurance that includes the builder's original construction, Owners must still purchase and maintain their own property insurance as required by Section 9.2 of this Declaration.

(d) If the Association ever elects to maintain a "bare walls" property insurance policy, Owners are obligated to maintain their own property insurance to cover items excluded under the Association's "bare wall" policy and including, but not limited to, finished surfaces (of walls, floors, and ceilings), flooring, cabinetry, fixtures, and appliances, betterments, and improvements.

(e) If the Association ever elects to maintain "all in" property insurance, Owners must still maintain their own property insurance, covering deductibles and exclusions from the Association's policy and liability within their Townhome.

(f) Each Owner is also responsible for obtaining insurance covering their personal property and coverage for liability arising within the Townhome and on or within any of the Limited Common Elements, if any.

(g) The Association has no liability for the failure of any Owner to maintain required insurance.

(h) Upon request by the Board of Directors, each Owner must furnish a copy of such insurance policy or policies to the Association.

Section 9.4 Renter's Additional Insurance Covenants and Requirements.

(a) Renters or lessees of a Townhome are obligated to obtain and maintain at all times insurance covering those portions of the Townhome that are leased to the extent not insured by policies maintained by the Owner.

(b) Each renter or lessee is responsible for obtaining insurance covering their personal property and coverage for liability arising within the Townhome and on or within any of the Limited Common Elements, if any.

(c) The Association has no liability for the failure of any renter or lessee to maintain required insurance.

(d) Upon request by the Board of Directors, each renter or lessee must furnish a copy of such insurance policy or policies to the Association.

Section 9.5 Owner's Right to Review Association Insurance Policies. The Association will make a copy of its insurance policies available for review by Owners and to allow Owners to assess their personal insurance needs. Each Owner has the right to obtain additional coverage at their own expense.

Section 9.6 Liability Insurance of the Association. The Association must obtain adequate comprehensive policy of public liability and property damage liability insurance covering the Common Elements and such areas that may become Common Elements (once those areas are improved by Declarant and have been in use by Owners or Related Guests). This policy is to be in such limits as the Board of Directors may from time to time determine, but not in any amount less than \$1,000,000.

Section 9.7 Fidelity Insurance of the Association. The Association must obtain adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, members of the Board of Directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association. This includes persons who serve the Association with or without compensation. The fidelity coverage or bonds must comply with applicable law and also should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, members of the Board of Directors, trustees and employees.

Section 9.8 Worker's Compensation and Employer's Liability Insurance of the Association. The Association must obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to its employees in the amounts and forms as may now or subsequently be required by law.

Section 9.9 Officers' and Directors' Professional Liability Insurance of the Association. The Association must obtain officers' and directors' personal liability insurance to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association. This policy must cover former board members and officers, and monetary and non-monetary claims.

Section 9.10 Other Insurance. The Association may obtain other insurance against other risks of similar or dissimilar nature as it deems appropriate with respect to its responsibilities and duties.

Section 9.11 Miscellaneous Terms Governing Insurance Carried by the Association.

(a) The Association must obtain and maintain in full force and effect at all times certain other insurance as set forth in this Declaration.

(b) All such insurance must be obtained, to the extent possible, from responsible companies duly authorized and licensed to do insurance business in the State of Colorado, and must:

(i) Provide for a waiver of subrogation by the insurer as to claims against the Association, members of the Board of Directors, officers, employees, agents, and Owners.

(ii) Contain a severability of interest clause that the insurance cannot be canceled, invalidated, or suspended because of the negligent or intentional acts of the Association, its officers, members of the Board of Directors, employees, and agents.

(iii) Provide that the policy of insurance may not be terminated, canceled, or substantially modified with no less than thirty (30) days' prior written notice to the Association, except in instances of nonpayment of premiums, which will require at least ten (10) days prior written notice.

(c) The cost and expense of all insurance obtained by the Association must be paid for out of Association funds collected by Assessments and otherwise as provided in this Declaration.

(d) The Association may obtain insurance against such other risks of similar or dissimilar nature, including flood insurance, as it may deem appropriate with respect to the Association responsibilities and duties.

Section 9.12 Insurance Premiums of the Association. Except as assessed in proportion to risk, if permitted under the terms of this Declaration, insurance premiums for all of the insurance described above to be provided by the Association will be a Common Expense to be included as a part of the annual Assessments levied by the Association.

Section 9.13 Deductibles. Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practice and consistent with the requirements of any institutional First Mortgagees. Any loss falling within the deductible portion of a policy must be borne by the Owner of the property damaged or the party suffering the loss.

Section 9.14 Managing Agent or Bookkeeper Insurance. The manager, managing agent or bookkeeper, if any, must be adequately insured for the benefit of the Association, and must maintain and submit evidence of such coverage to the Association.

Section 9.15 Waiver of Claims Against the Association. As to all policies of insurance maintained by or for the benefit of the Association and Owners, the Association and the Owners waive and release all claims against one another, the Board of Directors and Declarant, to the extent of the insurance proceeds available, whether or not the insurance damage or injury is caused by the negligence of or breach of any agreement by and of said persons.

Section 9.16 Annual Insurance Review of Insurance of the Association. The Board of Directors may review the insurance carried by and on behalf of the Association at least annually, for the purpose of determining the amount of insurance required.

Section 9.17 Claims and Adjustments by the Association. Any loss covered by an Association insurance policy must be adjusted by the Association. The insurance proceeds for that loss must be payable to the Association, and not to any institutional First Mortgagee or other such holder of a First Mortgage. The Association will hold any insurance proceeds in trust for the Association, Owners and institutional First Mortgagees or other holders of First Mortgages as their interests may appear. The proceeds must be distributed first for the repair or restoration of the damaged property, and the Association, Owners and institutional First Mortgagees or other holders of First Mortgages are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored. The Rules may include nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it has the authority to assess negligent Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event that more than one Townhome is damaged by a loss, the Association in its reasonable discretion may assess each Owner a pro rata share of any deductible paid by the Association.

Section 9.18 Duty to Repair of the Association and of Owners for Covered Property Losses. Any portion of the Community for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association or Owner, at the Owner's option on whether the repair is done by the Association or the Owner, except as provided in the Act.

Section 9.19 Condemnation and Hazard Insurance Allocations and Distributions. In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Owners, the distribution must be as the parties with interests and rights are determined or allocated by record.

ARTICLE 10. Alternative Dispute Resolution – Excluded Claims

Section 10.1 Purpose / Scope of Alternative Dispute Resolution. One of the purposes of this Declaration is to establish a harmonious Community, including the prompt, efficient, fair, and non-belligerent resolution of any construction or design dispute. Accordingly, any construction, design controversy or other claim against Declarant or its affiliates or agents or employees of its affiliates (an "Excluded Claim") arising out of or relating to the Townhome Exteriors, the Townhomes, Common Elements or related to the Community must be resolved as set forth in this Article.

Section 10.2 Warranty Standards. The standards for warranty services of Declarant are as published by Declarant for the Townhomes and the Common Elements. Declarant has disclosed to Owners that these standards are customary industry standards. Warranty coverage, under the limited warranty provided by Declarant, does not extend to drainage, soil erosion, landscaping, retaining walls, cracks in

concrete patios or sidewalks, sound transmission, condensation, color variations, noise from duct work and other exceptions and limitations of the warranty of the standards.

Section 10.3 Direct Communication. The parties to the disagreement over an Excluded Claim must set forth their respective positions in any dispute in correspondence. Each party must respond within twenty-one (21) days after receipt of a letter from the other until agreement is reached. If an agreement is not reached, the next section of this Declaration applies.

Section 10.4 Mediation. If an Excluded Claim cannot be resolved through direct communication of the parties, either party may request appointment of a neutral and properly credentialed mediator. The parties must participate in the mediation in good faith until the dispute is resolved for a period not to exceed ninety (90) days with the consent of all parties. The cost of the mediation must be divided equally among the parties. If a mediation does not resolve the Excluded Claim, the next sections of this Declaration apply.

Section 10.5 Pre-Conditions to Arbitrations by the Association or Any Owner.

(a) The conditions and provisions of any local law or ordinance limiting or setting forth procedures for claims against Declarant must first be complied with and completed by the Association or Owner.

(b) The Association or any Owner may proceed with communication and mediation, as allowed for under this Article, without a vote of Owners holding at least ninety percent (90%) of the votes as long as the Association or any Owner is in compliance with the provisions of this Declaration.

(c) On an Excluded Claim, the Association, if the Association complies with the terms of this Article, has the power to commence and maintain an arbitration, as may be deemed appropriate by the Board of Directors only if approved by Owners holding at least ninety percent (90%) of the votes in the Association.

(i) In making its recommendation to the Owners to bring an arbitration on an Excluded Claim, the Board of Directors is to exercise its reasonable judgment. The Board of Directors must consider, without limitation, the likelihood of success, the impact such action may have upon the market values of Townhomes or other portions of the Community, the cost of pursuing the arbitration including attorneys' fees and expert fees, the resources of the Association and whether a special assessment or depletion of reserves will be required in connection with pursuit of those claims or as a result, after those claims have been pursued.

(ii) The Board of Directors must prepare a written analysis of the risks and benefits to the Owners of commencing and maintaining an arbitration on an Excluded Claim.

(iii) The Board of Directors must deliver a copy of that written analysis to each of the Owners at least seven (7) days prior to the date scheduled for the meeting of Owners or prior to any vote on proceeding with arbitration on an Excluded Claim.

(iv) The Board of Directors must deliver a copy of that written analysis to each of the Owners at least ten (10) days prior to the date scheduled for the meeting of Owners or prior to any vote on proceeding with arbitration on an Excluded Claim.

(v) The Association may not bring an arbitration or any other legal action on an Excluded Claim, even with amendment of this Declaration, without compliance with the terms of this Article (un-amended).

(vi) The Association may not commence or maintain an arbitration on any Excluded Claim unless the commencement and maintenance have first been recommended by the Board of Directors and is also approved by Owners holding at least ninety percent (90%) of the votes in the Association.

Section 10.6 Arbitration Process and Procedures.

(a) If the Excluded Claim cannot be resolved through mediation, such dispute must be decided by mandatory and binding arbitration in accordance with the rules of the American Arbitration Association ("AAA") currently in effect.

(b) If the mandatory and binding arbitration of this Declaration is determined to be unenforceable by any court of competent authority, then, in those events, all Excluded Claims must still be decided by mandatory and binding arbitration in accordance with the rules of the AAA currently in effect.

(c) The following procedures apply to arbitration:

(i) Demand for arbitration must be filed in writing with the other party and with the AAA.

(ii) A demand for arbitration must be made within thirty (30) days after the dispute in question has arisen and failed to be resolved by mediation.

(iii) In no event may the demand for arbitration be made after the date when the institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

(iv) No arbitration arising out of or relating to this Declaration may include, by consolidation, joinder or any other manner, an additional person or entity not subject to the Declaration except that Declarant, at its sole election and in its sole discretion, may, by consolidation, joinder or any other manner, include contractors, subcontractors or other parties involved in the construction and/or planning of the Community.

(v) The arbitrator to hear the Excluded Claim may be jointly selected by the parties. If the parties cannot agree within thirty (30) days, the parties shall select the arbitrator they desire. Then, those arbitrators shall, amongst them, select the arbitrator to hear the Excluded Claim.

(d) The provision of this Article to arbitrate, or Declarant's election to arbitrate, or Declarant's determination to include any additional person or entity not subject to this Declaration in an arbitration are specifically enforceable in accordance with applicable law in any court having jurisdiction.

(e) The award rendered by the arbitrator or arbitrators is final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

(f) All filing fees and AAA costs associated with the arbitration itself must be paid for by the party who files the notice of arbitration.

Section 10.7 Lawsuits by the Association or Any Owner Are Precluded.

(a) The Association may not commence or maintain a lawsuit on any Excluded Claim, as these claims are subject to the arbitration provisions of this Article and the agreements of initial Owners entered into with Declarant.

(b) Owners may not bring a lawsuit on an Excluded Claim, as these claims are subject to the arbitration agreement as initial Owners have entered into with Declarant and are also subject to the provisions of this Article.

Section 10.8 Subsequent Owners. The provisions of this Article are binding on all subsequent Owners (those who did not purchase a Townhome from Declarant).

Section 10.9 Sole Remedy; Waiver of Judicial Rights. Subject to Declarant's election rights set forth in this Declaration, and the remedies available for Excluded Claims, Declarant, the Association, and each Owner expressly consent to the substance and procedures established in this Article as their sole and exclusive remedy. Each of these parties also expressly waives any right they may have to seek resolution of any Excluded Claim contemplated by this Article in any court. Each of these parties also waives any right to trial by a jury. If a dispute involves Declarant, an Owner, or the Association, no person may file a memorandum of *lis pendens* or similar instrument that would encumber or create a lien upon the Real Estate or the land owned by Declarant or the Association.

Section 10.10 Binding Nature; Applicable Law. The consideration of the parties to be bound by the provisions of this Article of this Declaration is not only the waiver of access to determination by a court (as applicable) and by a jury, but also the waiver of any rights to appeal the arbitration finding other than for the reasons available under Colorado law. A judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction.

Section 10.11 Location. All alternative dispute resolution proceedings under this Article must be held in the greater Denver metropolitan area in the State of Colorado, unless otherwise mutually agreed by the parties.

Section 10.12 Payment of Expenses Under This Article. Beyond filing fees and AAA costs associated with the arbitration (those costs being the obligation of the party who files the notice of arbitration), each party is responsible for their own costs, expenses, experts and attorneys' fees in the mediation and arbitration.

Section 10.13 Amendment of This Article. The provisions of this Article may only be amended with the consent of Declarant. This reservation is a reserved Development Right of Declarant under this Declaration and also CCIOA.

ARTICLE 11. Amendment And Termination

Section 11.1 Amendment of Declaration by Owners. Subject to provisions elsewhere contained in this Declaration requiring the consent of others, any provision, covenant, condition, restriction, or equitable servitude contained in this Declaration may be changed or repealed, and any such provision added to this Declaration at any time and from time to time upon approval of the Board of Directors and at least sixty-seven percent (67%) of the votes in the Association.

Section 11.2 Technical, Clerical, Typographical or Clarification Amendment. If Declarant determines that any amendments to this Declaration or to the Plat are necessary in order to make non-material changes, such as for the correction of a technical, clerical, or typographical error or clarification of a statement, then, subject to the following sentence of this section, Declarant has the right and power to make and execute any such amendment without obtaining the approval of any Owners. Each such amendment of this Declaration must be made, if at all, by Declarant prior to the date that is twenty (20) years from the recording date of this Declaration.

Section 11.3 Amendment Required by Mortgage Agencies. Until the date that is twenty (20) years from the recording date of this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which the FHA, VA, FHLMC, GNMA, FNMA or any similar entity authorized to insure, guarantee, make or purchase mortgage loans requires to be amended or repealed may be amended or repealed by Declarant. After that date, those types of amendments may be made by the Board of Directors or the Association. Any such amendment or repeal will be effective upon the recordation in the office of the Clerk and Recorder of Eagle County, State of Colorado, of a certificate setting forth the amendment or repeal in full.

Section 11.4 Recording of Amendments. To be effective, all amendments to or termination of this Declaration must be recorded in the office of the Clerk and Recorder of Eagle County, Colorado, and must contain evidence or a recital of approval. One method of satisfying the requirements of this section is the recordation of a certificate of the Secretary of the Association, certifying that Owners representing the requisite percentage of the Townhomes have given their notarized written consent to the amendment. The Secretary must further certify that originals of such written consent by Owners are in the corporate records of the Association and available for inspection. No action to challenge the validity of an amendment adopted by the Association pursuant to this Article may be brought more than one (1) year after the amendment is recorded.

Section 11.5 Approval Required for Certain Amendments. No amendment may change the formulas for determining Allocated Interests as set forth in this Declaration in the absence of the approval of the Owners holding at least ninety percent (90%) of the votes in the Association.

Section 11.6 Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration reserving rights of Declarant, or for the benefit of Declarant or its assignees, is not effective unless Declarant and its assignees, if any, have given written consent to such amendment or repeal. That consent may be evidenced by the execution by Declarant or its assignees of any certificate of amendment or repeal. Rights of Declarant, as provided for in this Declaration, are not to be construed as Development Rights or Special Declarant Rights or other rights allowed for under CCIOA, but rather, as rights independent of CCIOA, based on common law.

Section 11.7 Association Certification. Amendments to the Declaration required by this Article to be recorded by the Association are to be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. In the event of an amendment to the Declaration by the Owners, the Association may record the amendment with a certificate from the Association executed by any officer designated for that purpose or, in the absence of the designation, by the president, when the requisite number of Owners have consented to the amendment.

Section 11.8 Expenses. All expenses associated with preparing and recording an amendment to the Declaration are the sole responsibility of:

(a) Declarant, in the case of an amendment pursuant to reallocation of Allocated Interests and recordation of new plats in the exercise of Development Rights; and

(b) in all other cases, by the Association as a Common Expense or the applicable Owner.

Section 11.9 Termination. The Community may be terminated upon an affirmative vote of the Owners holding ninety percent (90%) of the Allocated Interests.

ARTICLE 12. General Provisions

Section 12.1 Enforcement. The Association or an Owner or Owners of any of the Townhomes may enforce this Declaration by proceedings at law or in equity against any person or persons, either to recover damages for such violation, including reasonable attorneys' fees incurred in enforcing this Declaration, or to restrain such violation or attempted violation. Failure of the Association or of any Owner to enforce any covenant or restriction in this Declaration is not and shall in no event be deemed a waiver of the right to do so subsequently. Disputes which do not involve payment of sums and charges due to the Association, upon approval of both the Owner(s) and the Board of Directors, may be submitted to binding arbitration.

Section 12.2 Special Taxing and Metropolitan District Disclosure. The Community may be subject to special taxing and metropolitan districts. Special taxing districts may be subject to general obligation indebtedness that is paid by revenues produced from annual tax levies on the taxable property within such districts. Owners in such districts may be placed at risk for increased mill levies and tax to support the servicing of such debt where circumstances arise resulting in the inability of such a district to discharge such indebtedness without such an increase in mill levies. Owners should investigate the special taxing districts in which the Real Estate is located by contacting the county treasurer, by reviewing the certificate of taxes due for the Real Estate, and by obtaining further information from the Board of County Commissioners, the County Clerk and Recorder or the County Assessor.

Section 12.3 Right to Pay Taxes and Insurance Premiums. Any First Mortgagee is entitled to pay any taxes or other charges which are in default and which may or have become a lien against a Townhome.

Section 12.4 Severability. Each of the provisions of this Declaration is deemed independent and severable. If any provision of this Declaration or the application of this Declaration to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

Section 12.5 Term of Declaration. The provisions of this Declaration (and all covenants) run with and bind the Real Estate in perpetuity, unless amended or terminated as allowed for in this Declaration.

Section 12.6 Interpretation. The provisions of this Declaration are to be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Real Estate and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration is to be construed and governed under the laws of the State of Colorado.

Section 12.7 Singular Includes the Plural. Unless the context otherwise requires, the singular includes the plural, and the plural includes the singular, and each gender referral is deemed to include the masculine, feminine and neuter.

Section 12.8 Captions. All captions and titles used in this Declaration are intended and used solely for convenience of reference and ease of use of this Declaration. Captions and titles used in this Declaration do not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article of this Declaration.

Section 12.9 Further Acts. Each Owner shall execute such documents and undertake such actions as the Association may reasonably request in order to effectuate the intent and purposes of this Declaration.

ARTICLE 13. Development Rights, Special Declarant Rights, and Additional Reserved Rights

Section 13.1 Development Rights and Special Declarant Rights. Declarant reserves, through the date that is twenty (20) years after the recording date of this Declaration, the following Development Rights and Special Declarant Rights:

- (a) the right to convert any portion of the Real Estate owned by Declarant or with the consent of the Owner into a Common Element or Limited Common Element;
- (b) the right to convert a Common Element into a Limited Common Element;
- (c) the right to convert a Limited Common Element to a Lot owned by Declarant, or with the consent of Declarant, to a Lot, or a part of a Lot or a Common Element;
- (d) the right to approve re-assignments of Limited Common Elements;
- (e) the right to approve a structure on the Real Estate that is not designated as a Townhome or residence;
- (f) the right and discretion to set an initial "community-wide standard;"
- (g) the right to approve subordinate or supplemental covenants of any Owner or on any Townhomes in the Community;
- (h) the right to withdrawal all of any part of the real property described in **Exhibit A**; provided no part of the Real Estate with a Townhome constructed thereon have been conveyed by Declarant to an Owner. Once a Townhome is constructed and is a part of a Building, then no part of the Real Estate upon which such Building is constructed may be withdrawn. Otherwise, all of the Real Estate is subject to Declarant's withdrawal rights;
- (i) the right to annex any withdrawn real estate or real estate adjacent to the Community, in the vicinity of the Community or across a public or private street from the Community or within the County in which the Real Estate is located (provided the Owner consents);
- (j) the right to add property adjacent to the Real Estate, with the consent of that Owner of that Real Estate and additional unspecified Real Estate according to the provisions of this Declaration subject to the limitations set forth in this Declaration and/or the Act;

- (k) the right to re-designate, change, modify or amend any Building designations and grouping of Townhomes to or within a Building;
- (l) the right to change the allocated interests initially set forth in Exhibit C as and if Townhomes are withdrawn or added, or as otherwise determined by Declarant;
- (m) the right to establish a common interest community, exempt from or subject to CCIOA, on any withdrawn Real Estate;
- (n) the right to subject the Real Estate and the Community to a master declaration with such terms, conditions, reservations, and restrictions as Declarant determines;
- (o) the right to relocate boundaries between adjoining Lots owned by Declarant, enlarge Lots, reduce the areas that are Common Elements and/or that may become Common Elements (as those areas are set forth in Exhibits D, E, and/or F), reduce the size of Lots, subdivide Lots owned by Declarant or complete or make improvements, as the same may be indicated on plats and maps filed of record;
- (p) the right to enlarge or reduce the Common Elements and to create additional Lots;
- (q) the right to exercise any additional reserved right created by any other provision of this Declaration;
- (r) the right to amend the use restrictions included in this Declaration, together with the right to add new use restrictions;
- (s) the right to amend the Declaration or Plat in connection with the exercise of any Development Right;
- (t) the right to amend the Plats in connection with the exercise of any Development Right;
- (u) the rights under any deed or deeds of Common Elements to the Association;
- (v) the right to amend zoning of the Real Estate, provided uses of existing Owners are preserved;
- (w) the right to appoint or remove any officer of the Association or any Director during the Period of Declarant Control;
- (x) the right to make amendments to this Declaration or the other Governing Documents to meet or comply with any requirements of any lender to an Owner or any local governmental authority or any changes in law;
- (y) the right to make amendments to the Declaration, Bylaws or Articles of Incorporation to meet or comply with any requirement of FHA or VA;
- (z) the right to use and to permit others to use, easements through the areas that may become Common Elements (as set forth in Exhibits D, E, and/or F) and also the Common Elements, once and if deeded to the Association, as may be reasonably necessary;
- (aa) any rights allowed Declarant under CCIOA; and

(bb) the rights reserved to Declarant, for itself, its successors and assigns, shall expire as set forth above, unless (i) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Board may impose on the subsequent exercise of the expansion rights by Declarant, (ii) extended as allowed by law, or (iii) terminated by written instrument executed by Declarant, recorded in the real property records of Eagle County.

Section 13.2 Additional Reserved Rights. In addition to the rights set forth above, Declarant also reserves the following additional rights:

(a) Sales and Offices. The right to maintain mobile and other sales offices, parking lots, management offices and models on the Real Estate.

(b) Signs. The right to maintain signs and advertising at the Community and to advertise the Community or other communities developed or managed by or affiliated with Declarant.

(c) Construction Easement. Declarant and its assignees expressly reserve to itself the right to:

- (i) construct Townhomes in the Community, including limiting access to parking areas and existing Townhomes for up to seventy-two (72) hours;
- (ii) perform warranty work, and repairs and construction work; and
- (iii) store materials in secure areas, in Townhomes, and on Common Elements.

Declarant's construction easement includes the future right to control such work and repairs and the right of access thereto until completion. All work may be performed without the consent or approval of any Owner or Mortgagee. Declarant and its assignees have such an easement through the Common Elements as may be reasonably necessary for exercising reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Property.

(d) Use Agreements. The rights to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance and regulation of parking and/or recreational facilities and/or Common Elements, which may or may not be a part of the Community.

(e) Access Easement. Declarant and its successors and assigns shall have an access easement to and from any real property accessible through the Community.

(f) Other Rights. The right to exercise any additional reserved right created by any other provision of this Declaration or by the Act.

Section 13.3 Rights Transferrable / Rights Transferred. Any rights created or reserved under this Article or the Act for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred recorded in the real property records of Eagle County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee. The rights transferred may then be exercised in compliance with the requirements of C.R.S. § 38-33.3-210 and C.R.S. § 38-33.3-209(6) without the consent of the Association, any Owners or any Mortgagee. Any rights created or reserved under this Article or the Act for the benefit of Declarant may also be transferred to the Association by an instrument describing the rights transferred recorded in the real property records of Eagle County, Colorado. Such

instrument shall be executed by the transferor Declarant and the Association as transferee. The rights transferred may then be exercised by the Association in compliance with the requirements of C.R.S. § 38-33.3-210 and C.R.S. § 38-33.3-209(6) without the consent of the appropriate Owner(s) or any Mortgagee.

Section 13.4 No Further Authorizations Needed. Except as set forth in this Declaration, the consent of Owners or Mortgagees shall not be required for exercise of any reserved rights, and Declarant or its assignees may proceed without limitation at its sole option. Declarant or its assignees may exercise any reserved rights on all or any portion of the property in whatever order determined. Declarant or its assignees shall not be obligated to exercise any reserved rights or to expand the Community beyond the number of Townhomes initially submitted.

Section 13.5 Amendment of the Declaration or Plat. If Declarant or its assignees elect to exercise any reserved rights, that party shall comply with the Act.

Section 13.6 Interpretation. Recording of amendments to the Declaration and the Plat or Plats pursuant to reserved rights in this Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically: (i) vest in each existing Owner the reallocated Allocated Interests appurtenant to their Townhome; and (ii) vest in each Mortgagee a perfected lien and security interest in the reallocated Allocated Interests appurtenant to their Townhome. Further, upon the recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Community as expanded and to any additional improvements, and the same shall be added to and become a part of the Community for all purposes. All conveyances of Townhomes after such amendment is recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any amendment of the Declaration or Plat. Reference to the Declaration and Plat in any instrument shall be deemed to include all amendments to the Declaration, and the Plat without specific reference thereto.

Section 13.7 Construction. Subsequent to the initial Real Estate and improvements made subject to this Declaration, any additional buildings, structures and types of improvements to be placed on the Real Estate or any part may be of such quality and type as the persons developing the same may determine, and those improvements need not be of the same quality or type as the improvements previously constructed on the Real Estate, nor of the same size, style or configuration. The improvements may be located anywhere in the Common Elements of the Community, the same being reserved for future development, or on the additional Real Estate as may be added or as shown on the Plat.

Section 13.8 Termination of Reserved Rights. The rights reserved to Declarant, for itself, its successors and assigns, shall expire as set forth above or in the Act, unless:

- (a) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Board may impose on the subsequent exercise of the expansion rights by Declarant;
- (b) extended as allowed by law; or,
- (c) terminated by written instrument executed by Declarant, recorded in the records of the Clerk and Recorder of Eagle County, State of Colorado.

[SIGNATURES BEGIN ON SUBSEQUENT PAGE]

Exhibit A – Description of the Real Estate

The Land is Described as follows:

LOT 1, BLOCK 11, AMENDED FINAL PLAT OF TWO RIVERS VILLAGE, ACCORDING TO THE AMENDED FINAL PLAT RECORDED MAY 14, 2003 RECEPTION NO. 833300, COUNTY OF EAGLE, STATE OF COLORADO.

LOT 2, A RESUBDIVISION OF LOTS 2 AND 3, BLOCK 11, AMENDED FINAL PLAT OF TWO RIVERS VILLAGE, ACCORDING TO THE AMENDED FINAL PLAT RECORDED JUNE 13, 2024 UNDER RECEPTION NO. 202406495, COUNTY OF EAGLE, STATE OF COLORADO.

Exhibit B – Exceptions to Title as to Confluence at Two Rivers

1. TERMS, CONDITIONS AND PROVISIONS OF RESOLUTION NO. 2003-055 RECORDED MAY 16, 2003 AT RECEPTION NO. 833745.
2. TERMS, CONDITIONS AND PROVISIONS OF TRANSFER OF DECLARANT RIGHTS RECORDED SEPTEMBER 16, 2003 AT RECEPTION NO. 849864 AND AS AMENDED IN INSTRUMENT RECORDED AUGUST 16, 2010 UNDER RECEPTION NO. 201016045.
3. AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, WHICH DO NOT CONTAIN A FORFEITURE OR REVERTER CLAUSE, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW AS CONTAINED IN INSTRUMENT RECORDED SEPTEMBER 16, 2003 RECEPTION NO. 849865, AND ANY AND ALL AMENDMENTS AND SUPPLEMENTS THERETO.
4. TWO RIVERS METROPOLITAN DISTRICT MAP RECORDED DECEMBER 18, 2009 UNDER RECEPTION NO. 27078.
5. TERMS, CONDITIONS AND PROVISIONS OF THE TWO RIVERS VILLAGE AND TWO RIVERS ESTATES PLANNED UNIT DEVELOPMENT GUIDE RECORDED AUGUST 18, 2011 AT RECEPTION NO. 201115412 AS THE SAME HAS BEEN OR MAY BE AMENDED FROM TIME TO TIME.
6. THE EFFECT OF NOTICE, RECORDED NOVEMBER 03, 2014, UNDER RECEPTION NO. 201418865.
7. TERMS, CONDITIONS AND PROVISIONS OF VACATION AND ABANDONMENT OF EASEMENT RECORDED JUNE 27, 2023 UNDER RECEPTION NO. 202307792 AND CORRECTION RECORDED DECEMBER 11, 2023 UNDER RECEPTION NO. 202316317.
8. TERMS, CONDITIONS AND PROVISIONS OF QUIT CLAIM DEED RECORDED JANUARY 12, 2024 UNDER RECEPTION NO. 202400416.
9. TERMS, CONDITIONS AND PROVISIONS OF QUIT CLAIM DEED RECORDED JANUARY 17, 2024 UNDER RECEPTION NO. 202400478.
10. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF A RESUBDIVISION OF LOTS 2 AND 3, BLOCK 11, TWO RIVERS VILLAGE RECORDED JUNE 13, 2024 UNDER RECEPTION NO. 202406495.
11. Any facts, rights, interests, or claims thereof, not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.

12. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
13. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
14. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
15. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water.
16. 2024 TAXES AND ASSESSMENTS NOT YET DUE OR PAYABLE.
17. RIGHT OF PROPRIETOR OF A VEIN OR LODGE TO EXTRACT AND REMOVE HIS ORE THEREFROM SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES AS RESERVED IN UNITED STATES PATENT RECORDED JANUARY 23, 1902, IN BOOK 48 AT PAGE 257.
18. RIGHT OF PROPRIETOR OF A VEIN OR LODGE TO EXTRACT AND REMOVE HIS ORE THEREFROM SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES AS RESERVED IN UNITED STATES PATENT RECORDED JULY 01, 1897, IN BOOK 48 AT PAGE 217.
19. RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES AS RESERVED IN UNITED STATES PATENT RECORDED JULY 01, 1897, IN BOOK 48 AT PAGE 217.
20. TERMS, CONDITIONS AND PROVISIONS OF PATENT RECORDED MAY 14, 1934 IN BOOK 93 AT PAGE 397.
21. RIGHT OF WAY EASEMENT AS GRANTED TO EAGLE VALLEY TELEPHONE COMPANY IN INSTRUMENT RECORDED JUNE 15, 1977, IN BOOK 256 AT PAGE 425.
22. RIGHT OF WAY EASEMENT AS GRANTED TO HOLY CROSS ELECTRIC ASSOCIATION, INC. IN INSTRUMENT RECORDED MARCH 21, 1979, IN BOOK 283 AT PAGE 312.
23. RIGHT OF WAY EASEMENT AS GRANTED TO HOLY CROSS ELECTRIC ASSOCIATION, INC. IN INSTRUMENT RECORDED SEPTEMBER 20, 1983, IN BOOK 368 AT PAGE 781.
24. RIGHT OF WAY EASEMENT AS GRANTED TO EAGLE TELECOMMUNICATIONS IN INSTRUMENT RECORDED JUNE 19, 1991, IN BOOK 556 AT PAGE 546.
25. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF TWO RIVERS VILLAGE RECORDED MAY 17, 2002 RECEPTION NO. 795926 AND AMENDED FINAL PLAT RECORDED MAY 14, 2003 AT RECEPTION NO. 833300.
26. TERMS, CONDITIONS AND PROVISIONS OF SCHOOL SITE AGREEMENT RECORDED MAY 17, 2002 AT RECEPTION NO. 795928.
27. TERMS, CONDITIONS AND PROVISIONS OF ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT RECORDED OCTOBER 02, 2002 AT RECEPTION NO. 809076.

Exhibit C – Allocated Interests

Address:	Townhome	Allocated Interest	Vote Allocation
30 Buffalo Circle Unit 1	1	1/46	1
30 Buffalo Circle Unit 2	2	1/46	1
30 Buffalo Circle Unit 3	3	1/46	1
30 Buffalo Circle Unit 4	4	1/46	1
30 Buffalo Circle Unit 5	5	1/46	1
30 Buffalo Circle Unit 6	6	1/46	1
30 Buffalo Circle Unit 7	7	1/46	1
30 Buffalo Circle Unit 8	8	1/46	1
30 Buffalo Circle Unit 9	9	1/46	1
30 Buffalo Circle Unit 10	10	1/46	1
67 Lakeshore Drive Unit 11	11	1/46	1
67 Lakeshore Drive Unit 12	12	1/46	1
67 Lakeshore Drive Unit 13	13	1/46	1
67 Lakeshore Drive Unit 14	14	1/46	1
67 Lakeshore Drive 15	15	1/46	1
67 Lakeshore Drive 16	16	1/46	1
67 Lakeshore Drive Unit 17	17	1/46	1
67 Lakeshore Drive Unit 18	18	1/46	1
30 Buffalo Circle Unit 19	19	1/46	1
30 Buffalo Circle Unit 20	20	1/46	1
30 Buffalo Circle Unit 21	21	1/46	1
30 Buffalo Circle Unit 22	22	1/46	1
30 Buffalo Circle Unit 23	23	1/46	1
30 Buffalo Circle Unit 24	24	1/46	1
30 Buffalo Circle Unit 25	25	1/46	1
30 Buffalo Circle Unit 26	26	1/46	1
30 Buffalo Circle Unit 27	27	1/46	1
30 Buffalo Circle Unit 28	28	1/46	1
30 Buffalo Circle Unit 29	29	1/46	1
30 Buffalo Circle Unit 30	30	1/46	1
70 Buffalo Circle Unit 1	31	1/46	1
70 Buffalo Circle Unit 2	32	1/46	1
70 Buffalo Circle Unit 3	33	1/46	1
70 Buffalo Circle Unit 4	34	1/46	1
70 Buffalo Circle Unit 5	35	1/46	1

70 Buffalo Circle Unit 6	36	1/46	1
70 Buffalo Circle Unit 7	37	1/46	1
70 Buffalo Circle Unit 8	38	1/46	1
70 Buffalo Circle Unit 9	39	1/46	1
70 Buffalo Circle Unit 10	40	1/46	1
70 Buffalo Circle Unit 11	41	1/46	1
70 Buffalo Circle Unit 12	42	1/46	1
70 Buffalo Circle Unit 13	43	1/46	1
70 Buffalo Circle Unit 14	44	1/46	1
70 Buffalo Circle Unit 15	45	1/46	1
70 Buffalo Circle Unit 16	46	1/46	1
Total	46	1.00	46

Exhibit D – Real Property That May Become Common Elements

Any real property adjacent to the Community that the owner of that property conveys to the Association and/or Declarant or consents to the conversion of that property to be a part of the Common Elements.

Exhibit E – Initial Limited Common Elements

None.

Exhibit F – Real Property That May Become Limited Common Elements

Any real property adjacent to the Community that the owner of that property conveys to the Association and/or the Declarant, the Association or that the owner consents to the conversion of that property to be a Limited Common Element.

CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
RULES AND REGULATIONS

WHEREAS, the Board of Directors (the “**Board**”) of Confluence at Two Rivers Community Association, Inc. (the “**Association**”) desires to establish, adopt, and enforce the following Rules and Regulations, to be effective as of the date set forth below, to supersede any prior Rules and Regulations adopted by the Board. These Rules and Regulations are in addition to all covenants and restrictions contained in the Declaration for Confluence at Two Rivers recorded in the real property records of Eagle County, Colorado on November 10, 2025 at Reception No. 202515275 (the “**Declaration**”). In the event of a conflict between these Rules and Regulations and provisions of the Declaration the provisions in the Declaration shall prevail.

WHEREAS, these Rules and Regulations are IN ADDITION to all applicable ordinances of the County of Eagle, which provide for additional penalties.

NOW, THEREFORE, effective as of November 11, 2025, the Board hereby establishes makes and adopts the following Rules and Regulations.

DEFINITIONS

Capitalized terms not otherwise defined herein shall have the meaning set forth in the Declaration.

“**Nuisance Animal**” shall mean any animal that consistently deprives other residents of their right to peaceful enjoyment of their property.

“**Property**” shall mean all the real estate subject to the Declaration.

“**Property Manager**” shall mean the current managing agent assigned by the management company that is contracted with the Association who will manage the day to day maintenance of the Common Elements and provide contracted services as requested by the Board.

“**Vicious Animal**” shall mean an animal that has demonstrated a propensity to bite, molest, or harass people, their pets or their property.

USE OF TOWNHOMES AND PROPERTY

- a. All Townhomes may be used only for residential purposes permitted by local zoning codes and regulations in effect from time to time. Subject to the terms of the Governing Documents, Owners may rent or lease their Townhomes to others for these purposes.
- b. Unless expressly permitted in writing by the Architectural or Design Review Committee (“**Committee**”), temporary structures shall not be permitted in the Community.

MAINTENANCE

- a. Townhomes shall be kept and maintained by the Owner thereof in a clean, safe, attractive and sightly condition and in good repair, and no trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Townhome or Common Element so that they are visible from, or are a nuisance in any way to, any other Townhome, Common Element or portion of the Community.
- b. No unsightliness shall be permitted on any Townhome or Common Element or any other portion of the Property. All unsightly structures, facilities, equipment, gas or electric grills, trash cans and other objects shall be kept within an enclosed portion of a Townhome at all times, except when in actual use in compliance with these Rules and Regulations and the Declaration. Satellite dishes shall be regulated by the Committee as permitted by applicable law. The Committee shall have the power to grant a variance from the provisions of this Section from time to time as it deems necessary or desirable. Furthermore, nothing contained in these Rules and Regulations shall be construed to prevent (i) the exercise by Declarant of any special declarant rights (as that term is defined in the Act); or (ii) the erection or maintenance by Declarant or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing or sale of Townhomes within the Property.
- c. Holiday decorations and political signs are permitted on an Owner's Townhome, subject to the provisions detailed hereunder.
 - i. Holiday decorations may only be displayed up to 30 days in advance of a particular holiday and must be removed within 30 days following the occurrence of such holiday.
 - ii. Colorado Revised Statute § 38-33.3-106.5(1)(c)(I) provides for the placement of political signs at election time. Political signs may be placed no earlier than 45 days prior to the election, and must be removed no later than 7 days after the election. No more than one sign per office or issue may be placed on any Townhome. The maximum size of any such sign may not exceed 36x48 inches.

PARKING

- a. Vehicles of all types must park in designated parking areas within the Community. Each Townhome will be permitted to park two vehicles in parking areas within the Community designated for Owner use and will be provided with two parking hangers which must be visibly displayed at all times within any vehicle parked in the Community.
- b. No boats, trailers, campers, motorcycles, snowmobiles or any other similar items shall be parked or stored on the street accessing the Community or within the parking areas within the Community without the prior approval of the Board.
 - i. Parking will be enforced by a licensed booting company, including guest parking.
 - ii. Any vehicle parked on the street accessing the Community, no matter how long it has been there, is subject to being booted at the cost of the owner.
 - iii. Guest parking is available. Please see Section h. below for details.
- c. No boats, trailers, buses, motor homes, campers (excluding camper shells mounted on pickup trucks), snowmobiles, recreational vehicles, trucks, industrial or commercial vehicles (both cabs or trailers), abandoned or inoperable vehicles (as defined below), or any other similar vehicles (excepting passenger automobiles, motorcycles and one ton or smaller pick-up trucks) shall be parked or stored within the Community without the prior approval of the Board, and no vehicle of any kind shall be maintained, repaired, repainted, serviced or rebuilt in any Townhome or on the Common Elements. At no time shall any motor vehicle be parked on any grassed or other landscaped area in the Community.
- d. Notwithstanding the foregoing, vehicles may be temporarily parked within the Community for loading, delivery or emergency purposes, but only for the time required to accomplish such purpose, and upon compliance with any conditions imposed by the Board and applicable provisions of the Rules and Regulations, if any.
- e. An "abandoned or inoperable vehicle" shall mean any motorized vehicle which does not display a current motor vehicle license or which has not been driven under its own propulsion for a period of two (2) weeks or longer (excepting otherwise permitted vehicles parked by Owners or occupants of their Townhome that display an Owner's parking hanger), or which does not have an operable propulsion system within the vehicle.
- f. In the event that the Board or the Committee shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of Section 7.11 of the

Declaration, a written notice of violation describing said vehicle shall be personally delivered to the vehicle owner (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner cannot be reasonably ascertained), and if the offending vehicle is not removed within seventy-two (72) hours thereafter, the Board or Committee (as the case may be) shall have the right to remove and store the offending vehicle, or cause the vehicle to be removed and stored, at the sole expense of the Owner of the Townhome to which the vehicle is associated, and to enter upon the Community for such purpose, all without liability on the part of the Board or the Committee.

- g. Snowmobiles, motorcycles, and motorized trail bikes, minibikes, dirt bikes, all-terrain vehicles, mopeds and similar motorized vehicles shall not be used or operated (but may be transported on trailers) within the Community, except that motorcycles properly licensed for operation on public roads may be used on roads within the Community.
- h. Guest parking shall be permitted in designated guest parking areas within the Community for periods no longer than five (5) consecutive days. Guest parking is also allowed at the Two Rivers Community Center. To park at the Two Rivers Community Center, you must set up an account and register the vehicle on the Two Rivers Online Parking Website. Any vehicle not registered will be booted at the Owner's expense.

www.parkingcode.com/tworivers

- i. Three (3) night maximum consecutive stay
- ii. You may register up to two (2) cars maximum per stay
- iii. Use of guest parking is limited to once a month

ACTIVITIES

- a. No noxious, destructive, offensive, hazardous, illegal or unsanitary activities, which are, or may become, a nuisance, cause embarrassment, disturbance or annoyance to others with the Community are allowed to be carried out in a Townhome or within the Community. Notwithstanding, any activities of an Owner, Declarant or their respective designees that are reasonably necessary to the development of and construction on the Property are specifically permitted so long as such activities do not violate the Governing Documents or any statutes, rules or regulations of any governmental authority having jurisdiction over the Community and do not unreasonably interfere with any Owner's use of its Townhome or with any Owner's ingress and egress to or from its Townhome.
- b. No activities shall be conducted in a Townhome or upon any Common Element that are illegal or that are or might be unsafe or hazardous to any person or property.
- c. No snow mobiles, motorcycles, motorized trail bikes, minibikes, dirt bikes, all-terrain vehicles, mopeds, or similar motorized vehicle may be used or operated

within the Community, except that they may be transported on trailers and motorcycles properly licensed for operation of public roads may be used on roads within the Community.

- d. No Owner shall release, discharge or emit from its Townhome or dispose of, or allow any person under such Owner's control or direction to release, discharge or emit from the Townhome or dispose of, any material on, above or under the Property that is designated as a pollutant or contaminant under any federal, state or local law, regulation or ordinance.
- e. Due to the corrosive and destructive nature of petroleum products and the adverse impact on the aesthetics of the Community, any vehicle maintenance within the Community is expressly prohibited. Emergency situations such as a failure during cold weather, changing signal lights, flat tires, and window washer fluid are acceptable.
- f. Vehicles are to be parked in the areas in the Community designated for parking, except for temporary parking related to deliveries or emergencies as otherwise permitted herein.
- g. Soliciting is strictly forbidden. Please tell solicitors to leave the Community. You may contact police to escort them off the Property if they don't leave when told.
- h. In the event additional uses, activities and/or facilities are deemed by the Board to be nuisances or to adversely affect the health, safety or welfare of Owners or members of the general public or the value of any portion of the Community, the Board may adopt additional rules and regulations restricting or regulating the same.

PETS

- a. Pets may not be bred or kept for any commercial purpose or kept in such number or in such manner as to be unreasonable or to create a nuisance to any resident.
- b. No person shall allow any pet owned or controlled by such person to roam within the Community unattended, and pets may not be kept on a patio or enclosed outdoor area serving a Townhome if the pets are excessively loud or otherwise creating a nuisance to neighboring Townhomes.
- c. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outside a Townhome.
- d. Owners are responsible for all property damage, injury or disturbances caused by their pets, or the pets of their family, guests, or tenants.
- e. Pets shall not be permitted to deprive other residents of their right of peaceful enjoyment of the Property.

- f. Pets must be kept and maintained in accordance with all applicable state and local regulations; failure to do so will constitute a violation of these rules.
- g. Owners are responsible for the removal of solid wastes of their pets from the Common Elements. This removal is to take place at the time of occurrence.
- h. Neither Vicious Animals nor Nuisance Animals may be kept within the Community.
- i. Contractors and subcontractors shall be prohibited from bringing dogs into the Community, and such prohibition shall even apply to dogs kept inside motor vehicles. Violations of this policy shall result in the immediate eviction of the dog and the dog's owner or owner's representative from the Property. In the event of a second violation by the same dog and/or the same dog's owner or owner's representative, the dog and the dog's owner or owner's representative shall be immediately evicted from the Property, and the offending person in question shall be prohibited from entering or working within the Property for the following seven (7) consecutive calendar days. In the event of a third violation, the offending person in question shall be prohibited from entering or working within the Property for the following six (6) consecutive calendar months.

USES OF COMMON ELEMENTS

- a. Smoking of any kind in the Common Elements is prohibited.
- b. Personal property, such as yard equipment, toys, tools, etc., may not be left unattended on the Common Elements.
- c. Any intentional act or neglect of an Owner, their family members, guests, or tenants resulting in loss or damages shall be the financial responsibility of the Owner.

DISTURBANCES

- a. Owners, tenants and guests are to avoid making excessive noise of any type at any time and are to be considerate of the welfare of other residents at all times.
- b. It is requested that noise due to visiting guests and parties, especially at night, be kept to a minimum. Please be considerate of your neighbors.
- c. All owners and occupants shall exercise reasonable care to avoid making loud, disturbing, or objectionable noise, and in using or playing radios, television sets, or other devices, in such a manner as to disturb occupants of other Townhomes. All radios, TVs, stereos, any other noise making apparatus or musical instruments must be played at reduced volume after 10:00 p.m. and before 8:00 a.m.

RENTAL PROPERTIES

- a. The Owner of a Townhome shall have the right to lease their Townhome. Owners shall be liable and financially responsible to the Association for any fines for violations of these Rules and Regulations or of the provisions of the Declaration, as well as damages caused by their guest(s), invitee(s), children, renters and pets. Owners are also financially responsible for all damage caused by their tenants, their family members, guest(s), invitee(s) and pets.
- b. All tenancies must be subject to a written lease that makes the lease subject to the Declaration, these Rules and Regulations, and any other documents governing the operation of the Association, as they may be amended from time to time and as further described in the Declaration.
- c. It is the responsibility of the Owner who is leasing or renting to notify tenants of the Declaration, the Rules and Regulations of the Association and the declarations or rules and regulations of any Building Association, as applicable, and provide the tenants with a copy of such. Copies of the documents related to the Association may be found at Management Company.
- d. Renters or lessees of a Townhome are obligated to obtain and maintain at all times insurance covering those portions of the Townhome that are leased to the extent not insured by policies maintained by the Owner.

EASEMENTS

All easements shown on a Plat covering any portion of the Community have been created or reserved for the purposes indicated on such Plat. No Owner may erect any structure of any type whatsoever in such easement areas, nor may an Owner or occupant of a Townhome use the surface of such easement areas for any private use.

With respect to easements created for utility purposes or for ditches either by the terms of the Declaration or any other recorded agreement or the Plat, any and all bona fide public and private utility service companies, including, without limitation, special utility districts, shall have the right of access, ingress, egress, and use of such easement areas for the installation, operation and maintenance of utility facilities serving the Community.

GRIEVANCE AND VIOLATIONS POLICIES AND PROCEDURES

- A. Enforcement. The Board and/or the Declarant shall have the power and duty to hear and make decisions regarding violations of these Rules and Regulations. The Association may have representatives periodically tour the Community looking for violations of these Rules and Regulations. If any are found, the Board will document the violation and follow the rest of these procedures. Neither the Association nor the Declarant shall impose a fine or infringe upon any property rights of an Owner or occupant of a Townhome (i.e., removal of a pet, demanding removal of a rental tenant, suspension of an occupant's right to use the Common Elements) for violations of these Rules and Regulations unless and until the procedures below are followed. The Board or the Declarant may determine enforcement action on a case-by-case basis and take other actions as it may deem necessary and appropriate to assure compliance with these Rules and Regulations, as the same may be amended from time to time, and to create a safe and harmonious living environment.
- B. Complaints. In the course of normal, day-to-day activities, disturbances may result from the close proximity of Townhomes in the Community. If an Owner or occupant of a Townhome is unreasonably disturbed or bothered by the activity of another Owner or the guest of another Owner, the Owner should attempt to reasonably resolve any such problem directly with the other Owner. If the Owners cannot come to a resolution on their own, then they may submit a formal, written complaint. Except for emergencies, all complaints must be in writing and signed by the person making the complaint. It is likely the Owner will be requested to explain the efforts taken to resolve the problem before formally complaining. If the Association receives a written complaint alleging a violation of these Rules and Regulations, the Board shall determine whether the allegations in the complaint are sufficient to constitute a violation of these Rules and Regulations and if action is warranted. If such determinations are made, the Association or the Declarant shall send a notice of violation and the procedures following shall apply.
- C. Notice of Violation. A written notice of violation, together with a demand to cease and desist from the alleged violation, if applicable (the "Demand for Abatement") shall be personally served upon the alleged violator (or Owner) or posted on their Townhome specifying:
- a. the alleged violation;
 - b. the action required to abate the violation;
 - c. a time frame during which the violation may be abated without further sanction if such violation is a continuing one. If such violation is not a continuing one, a statement that any additional similar violation could result in the imposition of a sanction after notice and opportunity for a hearing; and
 - d. that the violator has a right to a hearing to discuss the alleged violation and

possible imposition of sanctions, provided that the violator provides written notice of its election to have a hearing within ten (10) days of receipt of the Demand for Abatement. If the alleged violator fails to request a hearing within ten (10) days of receipt of the Notice of Violation, or fails to appear at any scheduled hearing, the Declarant or the Board has the right to make a decision with respect to the alleged violation based on any available information without the necessity of holding a formal hearing. If a violation is found to exist, the alleged violator may be assessed a fine, as provided below, or other sanctions if applicable.

- D. Hearing. If a hearing is timely requested by an alleged violator, the hearing shall be held affording the alleged violator a reasonable opportunity to be heard. Failure by the alleged violator to attend the hearing shall be considered an election by the alleged violator to waive his or her right to a hearing and the alleged violator shall be subject to the sanctions set forth in these Rules and Regulations.
- E. Sanctions / Schedule of Fines. Any violation of these Rules and Regulations will subject the Owner to any appropriate sanction as provided in these Rules and Regulations and may also impose a reasonable fine determined by the Board or the Declarant for each finding of a violation based on the type, severity, repetition and circumstances of each violation based on the following guidelines:

First time or minor violations	\$50
Repeated minor violations	\$100
Repeated or flagrant violations	\$300

The Association or the Declarant may from time to time establish certain violations as minor or flagrant so that fines are imposed consistently. In the event of a continuing violation, a daily fine may be levied if the Association or the Declarant performs a daily inspection to verify that the violation is continuing. The Association or the Declarant may institute legal action to enforce any right or remedy hereunder and, in such event, shall be entitled to receive reimbursement of all legal fees and costs.

- F. Limitations. In no event shall the Declarant or the Association suspend an Owner's right to use the Common Elements for infraction of these Rules and Regulations for a period in excess of 60 days after the infraction ceases. The decision of the Board or the Declarant shall be final.
- G. Waivers and Modification of Procedure. The Association or the Declarant has the option and right to continue to evaluate each enforcement issue on a case by case basis and may grant a waiver of any provision herein. In addition, the Association or Declarant is authorized to modify the procedures contained herein, as either may determine appropriate under the circumstances.

REVISIONS OF RULES; SEVERABILITY; MISCELLANEOUS

- A. The Association reserves the right, upon thirty (30) days' notice to Owners, to make

reasonable additions, deletions, amendments and revisions to these Rules and Regulations from time to time.

- B. If any provision of these Rules and Regulations or any document referred to in these Rules and Regulations is declared to be invalid, illegal, or unenforceable, such declaration shall not affect the enforceability of any other provision of these Rules and Regulations or any document referred to in these Rules and Regulations. Rather, the invalid, illegal or unenforceable provision shall be modified to the extent necessary to be declared valid, legal, and enforceable and, to the fullest extent possible, reflective of the intention of the parties.
- C. Situations and matters within the Community not addressed by these Rules and Regulations or by the Governing Documents may nonetheless be resolved by the Declarant or the Association by application of its reasonable judgment. The Declarant or the Association may deviate from any procedures or standards set forth in these Rules and Regulations if in its sole discretion such deviation is reasonable under the circumstances.
- D. Limitation of Liability. NOTWITHSTANDING THE DUTY OF THE DECLARANT OR THE ASSOCIATION TO MAINTAIN AND REPAIR PORTIONS OF THE COMMUNITY, NEITHER THE DECLARANT OR THE ASSOCIATION SHALL BE LIABLE TO OWNERS OR GUESTS FOR INJURY OR DAMAGE, OTHER THAN FOR THE COST OF MAINTENANCE AND REPAIR, CAUSED BY ANY LATENT CONDITION OF THOSE PORTIONS OF THE COMMUNITY TO BE MAINTAINED AND REPAIRED BY THE DECLARANT OR THE ASSOCIATION, OR CAUSED BY THE ELEMENTS OR OTHER OWNERS OR PERSONS. Further, neither the Declarant or the Association shall be liable for injury or damage to person or property resulting from any utility, rain, snow or ice that may leak or flow from other properties or from any portion of the Community or from any pipe, drain, conduit, appliance or equipment that the Declarant or the Association is responsible to maintain hereunder, except for injuries or damages arising after an Owner has put the Association on notice of a specific leak or flow from any portion of the Community for which the Declarant or the Association is responsible and the Declarant or the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Declarant and the Association shall not be liable to any Owner or guest thereof for loss or damage, by theft or otherwise, of any property that may be stored in or upon any portion of the Community. The Declarant and the Association shall not be liable to any Owner or guest thereof for any damage or injury caused in whole or in part by the Declarant's or the Association's failure to discharge its responsibilities under these Rules and Regulations where such damage or injury is not a foreseeable, natural result of its failure to discharge its responsibilities. No diminution or abatement of any assessments under the Declaration shall be claimed or allowed by reason of any alleged failure of the Declarant or the Association to take some action or perform some function required to be taken or performed by the Declarant or the

Association under these Rules and Regulations, or for inconvenience or discomfort arising from the making of repairs or improvements that are the responsibility of the Declarant or the Association, or from any action taken by the Declarant or the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

- E. The headings and titles of the paragraphs within these Rules and Regulations are included for purposes of convenience only and shall not affect the construction or interpretation of any of the provisions of said Rules and Regulations.

IN WITNESS WHEREOF, the parties have executed this Agreement this 11 day of November, 2025.

Confluence at Two Rivers Community Association,
Inc., a Colorado non-profit corporation

By:  _____

Its: President _____

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
ADOPTION AND AMENDMENT PROCEDURE**

Effective Date: November 11, 2025

1. Definitions:
 - A. A policy is a course or principle of action adopted to guide the Board.
 - B. A procedure is an established or official way of conducting a course of action.
 - C. A rule is defined as a regulation or requirement governing conduct or behavior or the use of property.
2. The Board has the authority to adopt policies, procedures, and rules to the extent they do not conflict with the Declaration, Articles of Incorporation, and Bylaws of the Association.
3. The Board has authority to adopt and amend policies and procedures governing Association operation. These policies and procedures will be adopted at an open Board meeting and documented in the minutes or in a formal resolution. Current policies may be posted on the Association's website, if a website is established and maintained.
4. The Board may adopt rules and regulations regarding the use of the Common Elements and Real Estate, and operation of the Association. Rules and regulations will be adopted at an open Board meeting and documented in the minutes or in a formal resolution. Newly adopted rules will be posted on the Association's website with accompanying notice to all Owners in the Association's newsletter, or via first-class mail, or via email if the Owner has provided an email address.

This Adoption and Amendment Procedure was adopted by the Board of Directors this ___ day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: 

Its: President

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
COLLECTION POLICY AND PROCEDURE**

Effective Date: November 11, 2025

1. Due Dates. Installments of the annual assessment and any other balances due as determined by the Association and as allowed for in the Declaration shall be due and payable on the 1st day of each month. Assessments or other charges not paid in full to the Association within one day of the due date shall be considered past due and delinquent. Assessments or other charges not paid in full to the Association within 20 days of the due date shall incur late fees and interest as provided below. In the event notice of acceleration is given to delinquent Owner(s), the Owner(s) shall also be charged any costs incurred by the Association in giving notice of such acceleration.
2. Receipt Date. The Association or its managing agent shall post payments on the day that the payment is received in the Association's office.
3. Late Charges and Interest on Delinquent Installments. The Association or its managing agent shall impose on a monthly basis a \$20.00 late charge for each Owner who fails to timely pay any assessment within 20 days of the due date. This late charge shall be a "common expense" for each delinquent Owner. The Association or its managing agent shall impose interest from the date due at the rate of 8% per annum on the amount owed for each Owner who fails to timely pay their monthly installment of any assessment within 20 days of the due date.
4. Personal Obligation for Late Charges and Interest. The late charge and interest shall be the personal obligation of the Owner(s) for which such assessment or installment is unpaid. All late charges and interest shall be due and payable immediately, without notice, in the manner provided by the Declaration (and as set forth herein) for payment of assessments.
5. Return Check Charges. In addition to any and all charges imposed under the Declaration, Articles of Incorporation and Bylaws, the Rules and Regulations of the Association or this Policy, a return check fee, not to exceed \$20.00, shall be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to insufficient funds. This returned check charge shall be a "common expense" for each Owner who tenders payment by check or other instrument which is not honored by the bank upon which it is drawn. Such return check charge shall be due and payable immediately, upon demand. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check charges shall be the obligation of the Owner(s) for which payment was tendered to the Association. Returned check charges shall become effective on any instrument tendered to the Association for payment of sums due under the Declaration, Articles, Bylaws, Rules and Regulations or this Policy after the date adopted as shown above. If two or more of an Owner's checks are returned unpaid by the bank within any fiscal year, the Association may require that all of the Owner's future payments, for a period of one (1) year, be made by certified check or money order. This return check charge shall be in addition to any late

fees or interest incurred by an Owner. Any returned check shall cause an account to be past due if full payment of any assessment is not timely made within 15 days of the due date.

6. Service Fees. In the event the Association incurs any type of service fee, regardless of what it is called, for the handling and processing of delinquent accounts on a per account basis, such fees will be the responsibility of the Owner as such fee would not be incurred but for the delinquency of the Owner. However, the cost charged to the Owner for any notice or other documentation sent to an Owner via certified mail is limited to the actual cost of the certified mail.
7. Repayment Plan. Any Owner who becomes delinquent in payment of assessments may enter into a repayment plan with the Association, which plan shall be for a minimum term of 18 months or such other longer term as may be approved by the Board of Directors.

Such repayment plan shall be offered to each Owner prior to the Association referring any account to an attorney or collection agency for collection action. Under the repayment plan, the Owner may choose the amount to be paid each month, so long as each payment is at least twenty-five dollars (\$25.00) until the balance of the amount owed is less than twenty-five dollars (\$25.00).

The Owner shall be deemed to be in default of the repayment plan and the repayment plan with the Association shall be null and void if within thirty (30) days after the Association or its managing agent has provided the Owner with a written offer to enter into a repayment plan, the Owner either declined the repayment plan; or after accepting the repayment plan, failed to pay at least three (3) of the monthly installments within fifteen (15) days after the monthly installments were due.

If the Owner does not confirm written acceptance of the repayment plan within thirty (30) days after the Association or its managing agent has provided the Owner with a written offer to enter into a repayment plan, the offer shall be deemed to be declined.

In the event the Owner defaults or otherwise does not comply with the terms and conditions of the repayment plan, including the payment of ongoing assessments of the Association, the Association may, without additional notice, refer the delinquent account to an attorney or collection agency for collection action or may take such other action as it deems appropriate in relation to the delinquency.

An Owner who has entered into a repayment plan may elect to pay the remaining balance owed under the repayment plan at any time during the duration of the repayment plan.

8. Attorney Fees on Delinquent Accounts. As an additional expense permitted under the Declaration and by Colorado law, the Association shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner, within any limitations pursuant to Colorado law. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand.

9. Application of Payments. Once an account is referred to the Association's attorney, all sums collected on a delinquent account shall be remitted to the Association's attorney until the account is brought current. The Association may prohibit the Owner from accessing any online payment portal until the account is brought current. All payments received on account of any Owner or the Owner's property, shall be applied in the following manner: first to the payment of any assessments owed, then to any and all legal fees and costs (including attorney fees), then to expenses of enforcement and collection, late charges, returned check charges, lien fees, and other costs owing or incurred with respect to such Owner pursuant to the Declaration, Articles of Incorporation, Bylaws, Rules and Regulations, or this Policy.
10. Collection Process.
- (a) After an installment of an annual assessment or other charges due to the Association becomes more than 30 days delinquent, the Association or its managing agent shall send a written notice ("First Notice") of non-payment, amount past due, notice that interest and late fees have accrued and request for immediate payment. This First Notice shall be sent by regular first class mail.
 - (b) After an installment of an annual assessment or other charges due to the Association becomes more than 60 days delinquent, the Association or its managing agent shall send a second written notice ("Second Notice") of non-payment, amount past due, notice that interest and late fees have accrued, notice of intent to file a lien and request for immediate payment. The Association's notice, at a minimum, shall include the following:
 - (i) The total amount due to the Association along with an accounting of how the total amount was determined.
 - (ii) Whether the Owner may enter into a payment plan and instructions for contacting the Association to arrange for and enter into a plan.
 - (iii) A name and contact information for an individual the Owner may contact to request a copy of the Owner's ledger in order to verify the amount of the debt, which copy of the ledger must be provided to the Owner no later than seven business days after receipt of the Owner's request.
 - (iv) A statement indicating that action is required to cure the delinquency and that failure to do so within thirty days may result in the Owner's delinquency account being turned over to an attorney, a collection agency, the filing of a lawsuit against the Owner, appointment of a receiver, the filing and foreclosure of a lien against the Owner's property, the sale of the Owner's Townhome at auction to pay delinquent assessments, which could result in the Owner losing some or all of the Owner's equity in the Townhome or other remedies available under Colorado Law including revoking the Owner's right to vote if permitted in the Bylaws or Declaration.

- (v) The availability of, and instructions on how to access, free online information through the HOA Information and Resource Center relating to the collection of assessments by an association, including the Association's ability to foreclose an association lien for unpaid assessments and force the sale of the Owner's Townhome, and the availability of online information from the Federal Department of Housing and Urban Development concerning credit counseling before foreclosure that may be accessed through a link on the Department of Local Affairs' website.
 - (vi) Specify whether the delinquency concerns unpaid assessments; unpaid fines, fees or charges; or both unpaid assessments and unpaid fines, fees, or charges, and, if the notice of delinquency concerns unpaid assessments, the notice of delinquency must notify the Owner that unpaid assessments may lead to foreclosure.
 - (vii) Include a description of the steps the Association must take before the Association may take legal action against the Owner, including a description of the Association's covenant violation cure process as laid out in the Association's Covenant and Rule Enforcement Policy and Procedures.
 - (viii) Include a description of what legal action the Association may take against the Owner, including a description of the types of matters that the Association or Owner may take to Small Claims Court, including injunctive matters for which the Association seeks an order requiring the Owner to comply with the Declaration, Bylaws, Covenants, or other governing documents of the Association.
- (c) This Second Notice will be provided to the Owner or the Owner's designated contact in the following manners:
- (i) Certified Mail, return receipt requested; and
 - (ii) By two of the following manners:
 - i. Telephone call to a telephone number that the Association has on file because the Owner or the Owner's designated contact has provided the number to the Association. If the Association attempts to contact the Owner or designated contact by telephone but is unable to contact the Owner or the Owner's designated contact, the Association shall, if possible, leave a voice message for the Owner or the Owner's designated contact; or
 - ii. Text message to a cellular number that the Association has on file because the Owner or the Owner's designated contact has provided the cellular number to the Association; or

- iii. Email to an email address that the Association has on file because the Owner or the Owner's designated contact has provided the email address to the Association.
 - iv. However, if the Owner or the Owner's designated contact has not provided a telephone number, cellular number, or email address to the Association, then this requirement of Section 10(c)(ii) shall be satisfied by sending this Second Notice via regular mail.
- (d) After an installment of an annual assessment or other charges due to the Association becomes more than 90 days delinquent, the Association or its managing agent shall turn the account over to the Association's attorney for collection.

Any collection account referred to an attorney for collections shall first be approved by the Board via resolution or a vote of the Board recorded in the minutes of the meeting at which the vote was taken, pursuant to the Association's Conduct of Meetings Policy and Procedure.

Upon receiving the delinquent account, legal counsel may file a lien and send a letter to the delinquent Owner demanding immediate payment for past due assessments or other charges due. Upon further review, legal counsel may file a lawsuit or further collection action. If a judgment or decree is obtained, including without limitation a foreclosure action, such judgment or decree shall include reasonable attorney fees together with the cost of the action and any applicable interest and late fees.

In addition to the steps outlined above, even after the Owner has been sent to the attorney for collections, on a monthly basis, the Association shall send any Owner with an outstanding balance due an itemized list of all assessments, fines, fees, and charges that the Owner owes the Association. A ledger going back to the last zero balance can satisfy this requirement.

This monthly notice shall be sent by first-class mail. The monthly notice shall also be sent by email if the Association has an email address for the Owner.

This monthly notice shall be sent in English unless the Owner has indicated a preference for notices to be sent in another language.

If the Owner has identified a designated contact, this notice shall be sent to both the Owner and a copy sent to the designated contact.

This notice may not contain additional legal fees and legal costs that have been incurred by the Association but have not yet been posted to the ledger. As such, the Owner is required to communicate with the collection attorney to obtain the most up to date balance.

11. Acceleration and Deceleration of Assessments. The Board reserves the right to accelerate and call due the entire unpaid annual assessment on any delinquent account including such

assessments that may become due during the pendency of a payment plan as described above. Such acceleration shall result in the entire unpaid annual assessment being due to the Association immediately. The Board also reserves the right to decelerate any accelerated assessment.

12. Collection Procedures/Time Frames. The following time frames shall be followed for use in the collection of monthly installments of the annual assessment and other charges.

Due Date (date payment due)	1st day of the month due
Past Due Date (date payment is late if not received on or before that date)	One day after due date
First Notice (notice that late charges and interest have accrued)	Any time after 30 days after due date
Second Notice (notice that late charges and interest have accrued, notice of intent to file lien, required disclosures of the Association and the availability of a payment plan if applicable)	Any time after 60 days after due date
Delinquent account turned over to Association's attorney; Lien filed; Demand letter sent to Owner.	Any time after 90 days after due date

The attorney may consult with the Association or its managing agent as necessary to determine if payment has been arranged or what collection procedures are appropriate.

13. Certificate of Status of Assessment. The Association or its managing agent shall furnish to an Owner or such Owner's designee upon the Owner's or designee's written request to the Association, made via first class postage prepaid, return receipt requested mail, a written statement from the Association, setting forth the amount of unpaid assessments currently levied against such Owner's property at no charge and delivered personally or by certified mail, first class-postage prepaid, return receipt requested. However, if the account has been

turned over to the Association's attorney, such request may be handled through the attorney.

A status letter provided to a title company or mortgage company in anticipation of a sale of the property or a refinance of the mortgage provides additional information beyond a statement of the total amount due and as such any charges incurred by the Association for providing a status letter shall be charged back to the Owner.

14. Bankruptcies and Foreclosures. Upon receipt of any notice of a bankruptcy filing by an Owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any unit within the Association, the Association or its managing agent shall notify the Association's attorney of the same and turn the account over to the Association's attorney, if appropriate.
15. Referral of Delinquent Accounts to Attorneys. Upon referral to the Association's attorney, the attorney shall take all appropriate action to collect the accounts referred. After an account has been referred to an attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. The attorney, in consultation with the Association or its managing agent, is authorized to take whatever action is necessary and determined to be in the best interests of the Association, including, but not limited to:
 - (a) Filing of a suit against the delinquent Owner for a money judgment;
 - (b) Instituting a judicial foreclosure action of the Association's lien, upon approval by the Association's Board of Directors;
 - (c) Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association's interests; and
 - (d) Filing a court action seeking appointment of a receiver.

All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney.

16. Appointment of a Receiver. The Association may seek the appointment of a receiver if an Owner becomes delinquent in the payment of assessments pursuant to the Declaration and Colorado law. A receiver is a disinterested person, appointed by the court, who manages the rental of the property, collects the rent and disburses the rents according to the court's order. The purpose of a receivership for the Association is to obtain payment of current assessments, reduce past due assessments and prevent the waste and deterioration of the property.
17. Judicial Foreclosure. The Association may choose to foreclose on its lien in addition to attempting to sue an Owner for a money judgment, subject to the provisions of Colorado law. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or other circumstances favor such action. The Association shall consider individually each recommendation for a foreclosure. Such foreclosure shall be approved by the Board via

resolution or a vote of the Board recorded in the minutes of the meeting at which the vote was taken.

The Association may only approve a foreclosure action after the delinquency equals or exceeds six months of common expenses assessments based on a periodic budget adopted by the Association.

The Association may not foreclose on an Owner's Townhome if the debt securing the lien consists only of one or both of the following:

- (a) Fines that the Association has assessed against the Owner as a result of covenant violations; or
- (b) Collection costs or attorney fees that the Association has incurred and that are only associated with assessed fines as a result of covenant violations.

If a Townhome has been foreclosed on by the Association, the Townhome shall not be purchased by any of the following categories of persons or companies, who are currently or have been at any time during the 5 years prior to the foreclosure sale:

- (i) a member of the Board;
- (ii) an employee of the Association's management company representing the Association;
- (iii) an employee of the law firm representing the Association;
- (iv) an immediate family member of any of the foregoing individuals; or
- (v) the Association's management company.

18. Waivers. The Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association shall determine appropriate under the circumstances.

19. Communication with Owners. As to any communication sent by the Association or its managing agent on behalf of the Association pursuant to Paragraph 10 of this Policy, the Association or managing agent on its behalf, shall maintain a record of any contacts, including information regarding the type of communication used to contact the Owner and the date and time that the contact was made.

An Owner may identify another person to serve as a designated contact for the Owner to be contacted on the Owner's behalf. If the Owner identifies a designated contact, the Association or its managing agent shall send any collection correspondence and notices to both the Owner and their designated contact. However, once an Owner is sent to the attorney for collections, all communication will be directly with the Owner until or unless the Owner provides permission directly to the Association's attorney giving permission for the attorney to discuss with the designated contact.

An Owner may notify the Association if the Owner prefers that correspondence and notices from the Association be made in a language other than English. If a preference is not indicated, the Association or its managing agent shall send the correspondence and notices in English. If the Owner has notified the Association of a preference other than English, any notices or letters sent pursuant to this Policy shall be sent both in English and in the preferred language.

If an Owner has identified both a designated contact and a preference for a different language, the Association or its managing agent shall send the Owner the correspondence or notice in the preferred language and in English and the designated contact the correspondence or notice in English.

All communication with a delinquent Owner shall be handled through the Association's attorney once a matter has been referred to the attorney. No member of the Board shall discuss the collection of the account directly with an Owner after it has been turned over to the Association's attorney unless the attorney is present or has consented to the contact.

20. Communication by Owners. Owners may communicate with the Association in any manner they choose including email, text, fax, phone, or in writing, when available. However, in doing so, the Owner acknowledges that the Association and/or its agents may communicate via the same method unless otherwise advised.
21. Defenses. Failure of the Association or its managing agent to comply with any provision in this Policy shall not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this Policy.
22. Definitions. Unless otherwise defined in this Policy, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
23. Supplement to Law. The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Association.
24. Deviations. The Board may deviate from the procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances.
25. Amendment. This Policy may be amended from time to time by the Board.

This Collection Policy and Procedure was adopted by the Board of Directors this 11
day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: 
Its: President

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
CONDUCT OF MEETINGS POLICY AND PROCEDURE**

Effective Date: November 11, 2025

1. Board Meetings.

A. Owners or their representatives may attend all Board meetings, except that Owners may be excluded from an executive session. The Board may go into executive session for any purpose allowed by law. Prior to going into executive session, the chair of the meeting will announce the purpose for the executive session.

B. The Board may post notice of upcoming Board meetings on a website, if any, or at any other feasible location within the community.

C. The meeting agenda will be made reasonably available for examination by Owners or their designated representatives.

D. The rules for Owner participation during the meetings are:

i. Each Owner who wishes to address the Board will be given a reasonable time to speak, provided the chair may impose reasonable time limits to facilitate Owner participation. If more than one person desires to address an issue on which the Board is to vote and there are opposing views, the Board will provide for a reasonable number of Owners to speak on each side of the issue. After other Owners have had an opportunity to speak, then an Owner who has already spoken will be given another opportunity, time permitting.

ii. Each Owner who wishes to speak must be recognized by the chair. Once recognized, the Owner will state their name and address.

iii. All comments must be delivered in a businesslike and professional manner. Personal attacks or inflammatory comments will not be permitted.

iv. To facilitate free and open discussion, Owners are prohibited from audio or video recording meetings.

v. The Board is not obligated to take immediate action on any item presented by an Owner.

E. There will be an Owners' forum at the beginning or other part of each regular Board meeting.

F. Owners who attend may not participate in deliberation or discussion during the business portion of the Board meeting until expressly authorized by the Board.

G. Items will be discussed based on the meeting agenda, provided that items may be taken out of order if deemed advisable. Items not on the agenda may be discussed once all other items have been concluded, time permitting.

H. Any director may make a motion. All motions and the outcome of the vote will be recorded in the minutes. If any director requests their vote in favor or against or their abstention be recorded in the minutes, the minutes will so reflect.

I. Board meetings are not required to be held in accordance with Robert's Rules of Order.

2. Annual Meetings/Special Owner Meetings.

A. Notice of a membership meeting will be sent to each Owner by mailing a copy of the notice, postage prepaid, or by hand-delivery, not less than 10 or more than 50 days prior to the meeting. If feasible and practical, notice will also be posted adjacent to entrance to the community. If an Owner requests notice by email only and provides an email address, notice will be provided by email.

B. Owners will sign in prior to the meeting for themselves and for any proxies they hold. If an election or vote is to be held, the Owner will be given the appropriate number of ballots. Voting rights of delinquent Owners are suspended and Owners will not be given a ballot.

C. Secret ballots are required for the following: contested elections and any other matters if so requested by at least 20% of the Owners present in person or by proxy. If secret balloting is not required, the Association may indicate the number of proxies held on the ballot itself.

D. Ballots will be counted by a neutral third party or by a committee of volunteers who are Owners selected or appointed at an open meeting by the President or other person presiding during that portion of the meeting. The committee of volunteers will not be Board members and, in case of a contested election, will not be candidates. The results of a vote taken by secret ballot will be reported without identifying information.

E. The President, or other person directed by the Board, will call the meeting to order and conduct the meeting. The meeting will proceed in the order set forth in the agenda.

F. Each Owner who wishes to speak will be given a reasonable time to speak, provided the chair may impose reasonable time limits to facilitate Owner participation. Owners may not speak a second time until everyone who wishes to speak has been given an opportunity to speak once. Owners may not speak more than twice on any one topic, subject to the chair's discretion.

G. Owners must maintain decorum and refrain from addressing the membership or Board until recognized by the chair. Upon being recognized, the Owner must state their name and address.

H. Owners may not interrupt anyone who validly has the floor, or otherwise disrupt the meeting. Owners may not engage in personal attacks on either Board members or other Owners. All comments and questions are to be delivered in a businesslike manner and comments will be confined to matters germane to the agenda item being discussed. No Owner may use abusive, rude, threatening, vulgar or crude language. To facilitate free and open discussion, Owners are prohibited from audio or video recording meetings.

I. Owners must obey all orders made by the meeting chair, including an order to step down.

J. Any Owner who refuses to follow the above rules will be asked to leave the meeting.

K. Any motions must be seconded prior to discussion and voting. Because the nature of a motion and vote may be outside the Owners' authority, the Board reserves the right to determine whether a motion will be considered binding on the Association or a recommendation for proceeding. The determination may be made following consultation with legal counsel.

L. Meetings are not required to be held in accordance with Robert's Rules of Order.

This Conduct of Meetings Policy and Procedure was adopted by the Board of Directors on this ___ day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: 
Its: President

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
CONFLICT OF INTEREST POLICY**

Effective Date: November 11, 2025

1. Disclosure. The director is to disclose any conflicting interest in a proposed transaction in an open meeting prior to the discussion and vote. The disclosure will be reflected in the meeting minutes or other written form.
2. Participation. The director will not take part in the discussion and will leave the room during the discussion and the vote on the matter. However, a majority of the disinterested Board members may ask the interested Board member to remain during any portion of the discussion and/or vote, provided that the director does not vote.
3. Quorum. The interested director will count for the purpose of establishing a quorum of the Board for the matter in which there is a conflict.
4. Approval. The contract, Board decision, or other Board action must be approved by a majority of the disinterested directors who are voting. No contract, Board decision, or other Board action in which a director has a conflict of interest will be approved unless it is commercially reasonable to and/or in the Association's best interests.
5. Standard of Review. No conflicting interest transaction will be set aside solely because an interested director is present at, participates in, or votes at a Board meeting that authorizes, approves, or ratifies the conflicting interest transaction if:
 - A. the material facts as to the director's relationship or interest as to the conflicting interest transaction are disclosed or known to the Board, and the Board, in good faith, authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors may be less than a quorum; or
 - B. the material facts as to the director's relationship or interest as to the conflicting interest transaction are disclosed or known to the Owners entitled to vote on the transaction, if any, and the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the Owners entitled to vote; or
 - C. the conflicting interest transaction is fair to the Association.
6. Loans. The Association will not make loans to its directors or officers. Any director or officer who assents to or participates in making a loan to a director or officer will be liable to the Association for the amount of the loan until the loan is repaid.
7. Association Lien Foreclosure. Colorado law prohibits a director or officer of the Association, and their immediate family members, from purchasing a Townhome during any foreclosure action filed by the Association to enforce its lien.

8. Definitions:

A. “Conflicting interest transaction” means a contract, transaction, or other financial relationship between the Association and: (i) a director, or (ii) a party related to a director, or (iii) an entity in which an Association director is also a director or officer or has a financial interest.

B. “Immediate family member” means a person related by blood, marriage, civil union, or adoption.

C. “Party related to a director” means a spouse, a descendent, an ancestor, a sibling, the spouse or descendent of a sibling, an estate or trust in which the director or party related to a director has a beneficial interest, or an entity in which a party related to a director is a director, officer, or has a financial interest.

D. “Officer.” for purposes of this policy only, means any person designated as an officer of the Association and any person to whom the Board delegates responsibilities, including, without limitation, a managing agent, attorney, or accountant employed by the Board.

9. Review. Directors will periodically review this policy.

This Conflict of Interest Policy was adopted by the Board of Directors on this ____ day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: 
Its: President

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
COVENANT AND RULE ENFORCEMENT POLICY AND PROCEDURE**

Effective Date: November 11, 2025

1. Enforcement Procedure. The Association will not impose fines or commence legal action for violations of the governing documents until after the Association has followed the procedures set forth below.

2. Complaints. Any Owner may send the Association a written complaint by email or first-class mail, with as much information as is known of a covenant or rule violation. Complaints may also be initiated by the manager or any member of the Board. Complaints that cannot be independently verified by a Board member or the Association's manager must be in writing. The Association has no obligation to consider oral or anonymous complaints. The Board may determine whether a written complaint is justified before continuing with any enforcement action or the notice and hearing procedures.

3. Notice of Violation.

A. The Association will send a written notice of any asserted violation of any provisions of the governing documents to the Owner in accordance with this policy. The notice will describe: (i) the nature of the violation; (ii) the action or actions required to cure the violation; (iii) any fines that may be imposed; (iv) the right to request a hearing to contest the violation or possible fine; and (v) if a hearing is requested, a date by which such request must be received and a timeline for the hearing process ("Notice of Violation").

B. Notices from the Association will be sent in English; provided, however, that the Owner may send written notice to the Association with an alternate language preference. The Association will attempt to provide an accurate translation of the original English version, but due to nuances in translating to a foreign language, slight differences may exist.

C. An Owner may send written notice to the Association identifying another person to serve as a designated contact for the Owner for notices and correspondence. The Association will send the same written communications to the designated contact that it sends to the Owner. If the Owner wishes to change or cease the designated contact, the Owner must send the Association written notice.

D. For the purpose of this policy to comply with Colorado law, a notice is deemed received when sent by and according to the following timelines:

i. Email or text – Upon successful transmission of electronic mail or text;

ii. Certified Mail/First-Class Mail – 3 business days after deposit for delivery;

or

iii. Actual Notice – Upon hand-delivery.

4. Violations That Threaten Public Safety or Health.

A. If the Association reasonably determines that a violation threatens the public safety or health, the Association will send the Owner a written Notice of Violation informing the Owner that the Owner has 72 hours to cure the violation, or the Association may impose a fine.

The written notice may be sent by any of the following means: first-class mail; certified mail; email; text message to a cellular number that the Association has on file because the Owner has provided the number to the Association; or hand-delivery.

B. After 72 hours from receipt of notice, the Association will inspect the Townhome and determine whether the violation has been cured. If the Owner has not cured the violation, the Association may impose fines on the Townhome Owner every other day in accordance with the fine schedule below and/or commence legal action to enforce the governing documents and cure the violation.

5. Violations That DO NOT Threaten Public Safety or Health.

A. If the Association reasonably determines that a violation occurred, other than a violation that threatens the public safety or health, the Association will send the Owner a Notice of Violation informing the Owner that the Owner has 30 days to cure the violation, or the Association, after conducting an inspection and determining that the violation has not been cured, may impose a fine. The Notice of Violation must be sent by certified mail, return receipt requested. The Association may send additional copies of the notice by first-class mail, email, text message to a cellular number that the Association has on file because the Owner has provided the number to the Association, and/or hand-delivery.

B. After 30 days, if the Association has not received notice from the Owner that the violation has been cured, the Association will inspect the Townhome within 7 days of the initial 30-day cure period. After inspection, if the Association determines that the violation has not been cured, the Association may impose the fine stated in the Notice of Violation and will send a second Notice of Violation with a second 30-day cure period.

C. After the second 30-day cure period, if the Association has not received notice from the Owner that the violation has been cured, the Association will inspect the Townhome within 7 days of the second 30-day cure period. After inspection, if the Association determines that the violation has not been cured, the Association may impose a second fine in accordance with the fine schedule below, send additional notices and opportunity to cure, and/or commence legal action. The Association may not commence legal action until a second 30-day cure period has elapsed.

D. If an Owner cures the violation within the required cure period, the Owner may notify the Association in writing, including visual evidence that the violation has been corrected. If the Owner provides visual evidence of the cure, the violation will be deemed cured on the date the Owner sends the notice. If the Owner does not provide visual evidence of the cure, the Association will inspect the Townhome as soon as practicable to determine if the violation has

been cured. If the visual evidence provided is insufficient for the Association to determine if a violation has been cured, at the Association's sole discretion, the Association can provide notice to the Owner that it intends to inspect the Townhome to verify the violation has been cured.

6. Additional Required Notices. If an Owner cures a violation, the Association will notify the Owner: (i) of any outstanding fine balance owed to the Association, and (ii) that the Owner will not be further fined with regard to the violation.

7. Request for Hearing. If an Owner desires a hearing to contest any alleged violation and possible fine or to discuss any mitigating circumstances, the Owner must request the hearing, in writing, prior to the deadline stated in the Notice of Violation. The request for hearing should describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. If a timely request for a hearing is not made, the right to a hearing is deemed forever waived. If a hearing is not requested by the deadline, the hearing board will determine if there was a violation based upon the information available to it, and if so, assess a fine as set forth in the fine schedule upon expiration of any applicable cure period(s).

8. Hearing Board to Conduct Hearing. The hearing board, which may be the Board of Directors, will hear and decide cases set for hearing pursuant to the procedures set forth in this policy. The hearing board may appoint an officer or other Owner to preside at any hearing.

9. Conflicts. Any Owner who desires a hearing will be afforded a fair and impartial fact-finding process by "impartial decision makers" (persons with authority to make a decision on a claimed covenant, rule, or architectural violation and without a direct personal or financial interest in the outcome of the hearing). Any decision-maker who is incapable of objective and disinterested consideration will disclose this to the presiding officer prior to the hearing, if possible. If advance notice is not possible, the disclosure will be made at the hearing, and the decision-maker will be disqualified from all proceedings related to the hearing. If disqualification of any decision-maker results in an even number of individuals eligible to hear a case, the presiding officer may appoint an Owner, in good standing, to serve as a voting member of the hearing board.

10. Hearings. The Board will inform the Owner of the scheduled time, place, and date of the requested hearing by any of the following means: first-class mail; certified mail; email; text message to a cellular number that the Association has on file because the Owner has provided the number to the Association; or hand-delivery. Hearings may be conducted during or subsequent to any applicable cure period(s). The presiding officer may grant continuances for good cause. At the beginning of each hearing, the presiding officer will explain the rules, procedures, and guidelines by which the hearing will be conducted. The complaining parties and the Owner will have the right, but not the obligation, to attend the hearing. Each party may present evidence, testimony, and witnesses. The decision will be based on the matters set forth in the notice of alleged violation, request for hearing, and evidence as may be presented at the hearing. Unless otherwise requested by the Owner, all hearings will be conducted during executive session. If a complaining party is unable to attend the hearing, the complainant may submit a letter to the hearing board explaining the basis of the complaint.

11. Decision. After all testimony and other evidence has been presented to the hearing board,

it will render its written findings and decision, and impose a fine, if applicable, upon expiration of any applicable cure period(s). A decision, either a finding for or against the Owner, will be a majority vote of the hearing board.

12. Fine Schedule.

A. Limitation on Fines. With the exception of violations that threaten public safety or health, CCIOA provides that the total amount of fines imposed for each violation of the governing documents may not exceed \$500. In accordance with limitations set forth in CCIOA, the Association has adopted the following schedule of fines. These fines supersede and replace any existing fines greater than \$500 adopted prior to the date of this policy.

B. General Fine Schedule.

Unless otherwise specified in the governing documents, the following fines may be imposed for each violation of the governing documents occurring within a one-year period:

First violation:	\$ 50
Second violation:	\$100
Third violation:	\$150
Fourth violation:	\$200

The Association may send one or more courtesy notices prior to a Notice of Violation. A Notice of Violation may be sent for any first violation. Additional or subsequent violations of the same provision occurring within one year from the date of the first Notice of Violation will be considered repeat or recurring violations, subject to additional fines as set forth above. After the one-year period, any subsequent occurrence of the same violation will be treated as a new first violation.

C. Continuing Violation Fine Schedule.

For any violation that does not threaten public safety or health and is continuing in nature, the Association may impose fines in accordance with the general fine schedule, or the Association may impose fines on a weekly basis in the amount of \$100.00 per week up to a maximum of \$500.00. The Association may impose a fine every other day in the amount of \$50.00 for violations that threaten public safety or health until the violation is cured.

For purposes of this policy, a violation is considered "continuing in nature" if the violation is uninterrupted by time or, by the nature of the violation, it occurs at such frequency to create a continuous pattern of occurrence. Examples of continuing violations include failure to paint your house, unsightly yard, unauthorized improvements, parking an unauthorized vehicle in the community on a nightly or other regular basis, etc.

The total amount of fines will not exceed \$500 for each violation of the same covenant, restriction, rule, or regulation. However, the Association reserves the right to impose fines greater than \$500 for violations that threaten public safety or health.

13. Additional Enforcement Rights.

A. Recorded Notice of Violation. The Board may issue and record with the Clerk and Recorder a Notice of Violation.

B. Default Assessment. Except fines, the Board may levy a Default Assessment against any Owner and Owner's Townhome for those purposes set forth in the Declaration.

C. Self-help Remedies. The Association or its duly authorized agent has the authority to abate or remove any structure, thing, or condition that violates the governing documents, as more fully provided in Sections 5.11(i) and 7.22 of the Declaration. All costs of self-help will be assessed against and be a lien on the Owner's Townhome.

D. Suspension of Right to Vote. An Owner's right to vote may be suspended for up to 60 days after notice to the Owner if the Owner is in violation of the governing documents.

14. Failure to Enforce. The Association's failure to enforce the governing documents is not a waiver of the right to enforce for any subsequent violations.

15. Administrative Expenses. Enforcement costs, imposed by the Association or its managing agent, related to covenant and rule enforcement will be the obligation of the Owner and may be posted to the Owner's account. Examples include but are not limited to, certified mailings or costs to translate a notice to a language other than English.

This Covenant and Rule Enforcement Policy and Procedure was adopted by the Board of Directors on this 11 day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: 
Its: President

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
INVESTMENT OF RESERVES POLICY**

Effective Date: November 11, 2025

1. With regard to investment of reserve funds, directors and officers are subject to the standard of care outlined in this policy. Officer, for purposes of this policy only, means any person designated as an officer of the Association and any person to whom the Board delegates responsibilities, including, without limitation, a managing agent, attorney, or accountant employed by the Board.

A. Directors and officers will perform their duties regarding investment of reserves in good faith, in a manner the director or officer reasonably believes to be in the Association's best interests, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. In performing the duties, a director or officer is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by: (i) one or more Association officers or employees whom the director or officer reasonably believes to be reliable and competent in the matters presented; (ii) legal counsel, community association manager, public accountant, or other persons as to matters which the director or officer reasonably believes to be within the person's professional or expert competence; or (iii) an Association committee on which the director or officer does not serve if the director reasonably believes the committee merits confidence.

B. A director or officer is not considered to be acting in good faith if the director or officer has knowledge concerning the matter in question that would cause reliance on others as provided above to be unwarranted. A director or officer is not liable to the Association or its Owners for any action the director or officer takes or omits to take as a director or officer if, in connection with the action or omission, the director or officer performs their duties in compliance with this policy. A director or officer, regardless of title, is not deemed to be a trustee with respect to the Association or with respect to any property held or administered by the Association.

2. The Board establishes the amount to be transferred to reserve funds on an annual basis. The amount will be reflected in the budget to be ratified by the Owners.

3. Reserves may be invested in certificates of deposit, money market deposit accounts, money market funds, U.S. treasury and government obligations, municipal bonds and other state obligations, and other investments pursuant to the Association's investment goals. No funds will be deposited or invested except in authorized investment funds.

4. The reserve funds will be invested to achieve the following goals, in descending order of importance:

A. Promote the preservation of principal;

- B. Structure maturities to promote liquidity and accessibility of funds for projected or unexpected expenditures;
 - C. Mitigate the effects of interest rate volatility upon reserve assets;
 - D. Seek the highest level of return that is consistent with preserving the principal and accumulated interest;
 - E. Minimize investment costs.
5. The Board may consider the following circumstances in investing reserve funds:
- A. General economic conditions;
 - B. Possible effect of inflation or deflation;
 - C. Expected tax consequences;
 - D. Role that each investment plays in the overall investment portfolio;
 - E. Other Association resources.
6. All accounts, instruments and other documentation of investments will be subject to the approval of, and may from time to time be amended by, the Board as appropriate, and will be reviewed periodically.
7. The President or Treasurer or manager, if authorized by the Board, are authorized to purchase, invest in, acquire, sell, or assign any and all types and kinds of investments meeting the goals in Section 4; and to enter into agreements, contracts, and arrangements with respect to security transactions and to execute, sign or endorse agreements on the Association's behalf. To withdraw or transfer funds, the signature of the President and Treasurer will be required.
8. The Association will carry fidelity insurance to protect against theft or dishonesty from anyone with access to the reserve funds, if required by the governing documents and Colorado law.
9. The Association's manager or other person designated by the Board will maintain monthly statements, including detailed accounting of current values, income, and all transactions.

This Investment of Reserves Policy was adopted by the Board of Directors on this 11
day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: 
Its: President

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
RECORDS INSPECTION POLICY AND PROCEDURE**

Effective Date: November 11, 2025

1. Availability and Inspection of Records. Any records required to be made available by law will be made reasonably available for inspection and copying by an Owner or the Owner's authorized agent. "Reasonably available" means available during normal business hours after written request of at least 10 days, or at the next regularly scheduled meeting if such meeting occurs within 30 days after the request. The written request will describe the records sought with reasonable particularity. The Board may require that requests be submitted on the form attached to this policy.

A. Upon receipt of a request, the Association will make an appointment with the Owner, at a time convenient to both parties, to conduct the inspection. Unless otherwise agreed, all records will be inspected at the management company's office. All appointments for inspection will be limited to 4 hours. If additional time is needed, another appointment will be made within 2 weeks, at a time convenient to both parties.

B. At the discretion of the Board or Association manager, records will be inspected only in the presence of a Board member, management company employee, or other person designated by the Board.

C. During inspection, an Owner may designate pages to be copied with a paperclip, post-it note, or other means the Association provides. Copies will be made at a cost based on the standard schedule of fees charged by the Association's management agent, which charges will include reasonable retrieval costs for off-site files or for any other necessary special processing. The Owner will be responsible for paying the total copying cost prior to receiving the copies. The Owner will be responsible for mailing costs, if any.

D. The right to copy records under this Section includes the right to receive copies by photocopying or other means, including the receipt of copies through an electronic transmission, if available, upon request by the Owner.

E. Records may not be removed from the office in which they are inspected without the Board's express written consent.

2. Association Records. In addition to any records specifically required by law or the Association's Declaration or Bylaws, the Association will maintain the following records, which are the Association's sole records:

A. detailed records of receipts and expenditures affecting the Association's operation and administration;

B. records of claims for construction defects and amounts received pursuant to settlement of those claims;

C. minutes of membership meetings, minutes of Board meetings, a record of all actions taken by the Owners or Board without a meeting (i.e., by written ballot or written consent in lieu of a meeting), and a record of all actions taken by a committee of the Board;

D. written communications among, and the votes cast by, Board members that are directly related to an action taken by the Board without a meeting pursuant to the Association's Bylaws or Colorado law;

E. Owners' names in a form that permits preparation of a list of names and physical mailing addresses of all Owners, showing each Owner's number of votes ("Membership list");

F. the current articles of incorporation, declaration, covenants, bylaws, rules and regulations, responsible governance policies required pursuant to Colorado law, and any other policies adopted by the Board;

G. financial statements, to the extent available, showing, in reasonable detail, the Association's assets and liabilities and results of its operations for the past three years;

H. tax returns for the past seven years, to the extent available;

I. a list of the names, electronic mail addresses, and physical mailing addresses of its current directors and officers;

J. its most recent annual report delivered to the Secretary of State;

K. financial records sufficiently detailed to enable the Association to provide statements of unpaid assessments in accordance with the Colorado Common Interest Ownership Act;

L. the Association's most recent reserve study, if any;

M. current written contracts to which the Association is a party;

N. written contracts for work performed for the Association within the immediately preceding two years;

O. records of Board or committee actions to approve or deny design or architectural approval from Owners;

P. ballots, proxies, and other records related to voting by Owners for one year after the election, action, or vote to which they relate (provided that any identifying information on ballots may be redacted prior to owner inspection);

Q. resolutions adopted by the Board relating the characteristics, qualifications, rights,

limitations, and obligations of Owners or any class of Owners;

R. written communications within the past three years to Owners generally as Owners;
and

S. a list of the current amounts of all unique and extraordinary fees, assessments, and expenses that are chargeable by the association (including those of any management company) in connection with the purchase or sale of a unit and are not paid for through assessments, including transfer fees, record change fees, and the charge for a status letter or statement of assessment due.

If the Association stores other types of documentation, or stores documentation for a longer time period than may be required above, those documents will not be considered Association records.

3. Additional Records/Information. The following additional information as required by C.R.S. § 38-33.3-209.4 will be kept and made available:

- A. the name of the Association's designated agent or management company;
- B. a valid physical address and telephone number for both the Association and manager or management company;
- C. the name of the common interest community;
- D. the initial date of recording of the Declaration;
- E. the reception number or book and page for the Declaration;
- F. the date on which the fiscal year commences;
- G. the operating budget for the current fiscal year;
- H. a list, by Townhome, of the Association's current assessments (regular and special);
- I. the annual financial statements, including any amounts held in reserve, for the fiscal year immediately preceding the current annual disclosure;
- J. the results of the most recent available financial audit or review, if any; and
- K. a list of all Association insurance policies, including company names, policy limits, policy deductibles, additional named insureds, and expiration dates. The insurance policies themselves will also be kept and made available.

4. Restrictions on Use of Membership List.

A. No Owner may use Association records, or allow Association records to be used, for commercial purposes.

B. In addition, a Membership List may not be:

i. used to solicit money or property unless such money or property will be used solely to solicit votes of the Owners in an election held by the Association;

ii. used for any commercial purpose;

iii. sold to or purchased by any person;

iv. used for any purposes unrelated to the Owner's interest as a member of the Association; or

v. used for any other purpose prohibited by law.

Owners requesting a Membership List will be required to sign the agreement attached to this policy indicating that they will not use the list for the purposes stated above.

5. Records That May Be Withheld. Pursuant to Colorado law, the following records may be withheld from inspection and copying to the extent that such records are or concern:

A. architectural drawings, plans, and designs, unless the legal owner of the drawings, plans, or designs provides written consent to the release;

B. contracts, leases, bids, or records related to transactions to purchase or provide goods or services that are still in or under negotiation;

C. communication with legal counsel protected by the attorney-client privilege or the attorney work product doctrine;

D. disclosure of information in violation of law;

E. records of an executive session of the Board; and

F. records related to an individual Townhome other than the Owners.

If these records are made available for inspection, the procedure set forth in Section 1 applies.

6. Records That Are Not Available. Pursuant to Colorado law, the following records are not subject to review, inspection, and/or copying, and will be withheld from any inspection:

A. personnel, salary, or medical records related to specific individuals; and

- B. Owners' personal identification and account information, including:
- i. bank account information;
 - ii. telephone numbers;
 - iii. electronic mail addresses;
 - iv. driver's license numbers;
 - v. social security numbers; and
 - vi. vehicle identification information.

Notwithstanding the limitations above, an Owner or resident may provide the Association with prior written consent to the disclosure of, and the Association may publish to other Owners and residents, the person's telephone number, electronic mail address, or both.

7. Creation of Records. Nothing contained in these policies will be construed to require the Association to create records that do not exist or compile records in a particular format or order.

8. Remedies. The Association may pursue any Owner for damages or injunctive relief or both, including reasonable attorney fees, for abuse of inspection and copying rights, including use of any records for a commercial purpose.

This Records Inspection Policy and Procedure was adopted by the Board of Directors on this 11 day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: 
Its: President

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
REQUEST FOR ACCESS TO ASSOCIATION RECORDS**

Owner Name: _____ Date: _____

Address: _____

Telephone #: _____

1. Pursuant to state law and the Association's Records Inspection Policy, I hereby request that Confluence at Two Rivers Community Association, Inc. provide access to the records of the Association. I have requested to inspect and/or obtain copies of the following records:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

(Please be as specific as possible. Add additional pages, if necessary.)

I understand that upon receipt of this request, the Association will set an appointment with me during regular business hours.

2. I understand that under the terms of the Colorado Revised Nonprofit Corporation Act, Association records may not be obtained or used for any purpose unrelated to my interest(s) as an Owner or for any commercial purpose. I further understand and agree that the Association's membership list may not be:

- (i) Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election held by the Association;
- (ii) Used for any commercial purpose;
- (iii) Sold to, otherwise distributed to, or purchased by any person; or
- (iv) Any other purpose prohibited by law.

3. I acknowledge and accept the Association's records inspection policy. I acknowledge and accept that the Association's records will be made available to me only at such time and place as the Association's policy provides, and that there may be a cost associated with providing copies of these documents for me. I agree to pay any costs associated with copying these documents. In the event the records provided to me by the Association are used for any commercial purposes or other improper purpose, I will be responsible for any and all damages, penalties and costs incurred by the Association, including attorney fees, and I shall be subject to all enforcement procedures available to the Association through its governing documents and/or Colorado law.

Owner Signature: _____

Date: _____

Owner Name: _____

Date: _____

Address: _____

Telephone #: _____

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
DISPUTE RESOLUTION POLICY AND PROCEDURE**

Effective Date: November 11, 2025

1. Required dispute resolution procedure for claims involving an Excluded Claim. For any dispute involving an Excluded Claim (as defined in the Declaration) notices, procedures and conditions set forth in Article 10 of the Declaration shall apply. For all other disputes, the dispute resolutions procedures set forth in this policy apply.

2. Required dispute resolution procedure for claims against Association. Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, an Owner must request and attend a hearing with the Board. The request will be in writing and will be personally delivered to any Board member or the Association's property manager. The Owner, in the request and at the hearing, must make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and will give the Board a reasonable opportunity to address the Owner's grievance. Upon receiving a request for a hearing, the Board will give notice of the date, time, and place of the hearing to the person requesting the hearing. The Board will schedule this hearing for a date not less than 14 or more than 30 days from the date the request is received. If the dispute cannot be resolved, the parties may utilize the discretionary mediation procedure set forth below but will not be required to do so.

3. Discretionary dispute resolution procedures for other claims. The procedures set forth below may be used in any disputes between Owners and/or residents. At its discretion, the Board may use the procedures set forth below to resolve disputes with Owners prior to filing litigation.
 - A. Negotiation. A request for dispute resolution by negotiation may be initiated by an Owner or the Association. The request will be in writing stating the nature and details of the dispute and will be personally delivered to the other party. So long as the other party agrees to negotiate, a meeting will be held between the parties to begin a good faith attempt to negotiate a resolution not less than 14 or more than 30 days of receipt of the request, unless otherwise extended by written agreement. Through negotiation, the parties will communicate directly with each other in an effort to reach an agreement that serves the interests of both parties. Should the dispute pertain to property issues, each party will be granted the right to inspect the alleged defects or problems at a time convenient to everyone involved.

 - B. Mediation. If the dispute is not resolved by negotiation, any party may request in writing that the issue be submitted to mediation. If the parties agree to mediate the dispute prior to seeking other remedies, they will participate in good faith in the mediation. The role of the mediator is to facilitate further negotiation between the parties. The mediator will not have power to decide how to resolve the dispute but will use recognized, accepted mediation techniques to assist the parties in making that decision. The mediator will be selected by a consensus of the parties involved within 14 days of the receipt of the request. Any cost of mediation will be shared equally among the parties unless they and the mediator agree otherwise.

this 11 This Dispute Resolution Policy and Procedure was adopted by the Board of Directors on day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: 
Its: President

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
RESERVE STUDY AND FUNDING POLICY**

Effective Date: November 11, 2025

1. Reserve Study. The Association is not required under the governing documents to have a reserve study. In the event the Association elects to obtain a reserve study, it is preferred to be based on a physical examination of the Community by the person preparing the reserve study.

2. Reserve Funding. Funding for replacement is preferred to be based on a financial analysis and performed by a professional reserve specialist but may be by the Association's managing agent. Funding for replacement is planned and projected to be from the following sources: (A) cash then on hand, including the operation and the reserve accounts, (B) annual assessments of owners, (C) special assessments of owners, (D) a loan as may be obtained by the Association, and/or (E) any combination of the above.

This Reserve Study and Funding Policy was adopted by the Board of Directors on this ____ day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: _____

Its: President

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
PERSONAL IDENTIFYING INFORMATION, DATA SECURITY AND BREACH
NOTIFICATION POLICY**

Effective Date: November 11, 2025

1. Association Safeguarding Personal Identifying Information of Owners and/or Residents.

A. In the normal course of the Association's business, the Association may have an individual's PII (as defined below) in its records.

B. The Association recognizes the need to maintain the confidentiality of PII and has and will continue to implement reasonable security procedures to seek to protect any PII from unauthorized access, use, modification, disclosure or destruction. Those measures are based on the nature of the PII and the volunteer nature of the Association's board, officers and owners in the community. The Association is not a guarantor, but rather, will seek to protect PII as set forth in this policy.

C. Pursuant to the Association's records inspection policy and Colorado law, PII is not available for inspection and/or copying by members and will be maintained separately from other Association records.

D. The Association's records, including PII, if any, may be maintained by the Association's management company.

E. The management company is expected to implement reasonable security measures to protect any Association member's PII, whether stored electronically or in hard copy, from unauthorized access, use, modification, disclosure or destruction.

F. Reasonable security measures may include, without limitation, non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits.

2. Disposal of Personal Identifying Information by the Association.

When the Association has determined that it no longer needs records containing PII, those records will be disposed of or destroyed in a manner reasonably designed to make the PII unreadable or indecipherable. Possible methods of disposal or destruction include shredding of any physical files containing PII and using a wipe utility program to securely erase electronic files or otherwise erasing electronic files so that information cannot be read or reconstructed.

3. Protection of Personal Information / Notification and Investigation of Suspected Security Breach.

A. If the Association becomes aware that a Security Breach may have occurred, it will promptly investigate the likelihood that PI (as defined below) has been or will be misused.

B. Unless the Association determines that the PI has not been misused and is not reasonably likely to be misused, the Association will provide notice to any affected individuals in accordance with the requirements set forth in C.R.S. § 6-1-716.

C. If the Association becomes aware that any PI in the management company's possession or control has been breached, it will require the management company to follow any notice requirements set forth in C.R.S. § 6-1-716.

D. This notice will be sent as soon as is reasonably possible, but no later than 30 days after the determination is made.

4. Definitions:

A. **“Personal Identifying Information” or “PII”** means any:

- i. social security number;
- ii. personal identification number;
- iii. password or pass code;
- iv. government or state-issued driver's license or identification card number;
- v. passport number;
- vi. biometric data (defined as unique biometric data generated from measurements or analysis of human body characteristics for the purpose of authenticating the individual when he accesses an online account);
- vii. employer, student, or military identification number; or
- viii. financial transaction device (defined by statute as a credit, banking card, debit card, electronic fund transfer card, guaranteed check card or account number representing a financial account or affecting the account holder's financial interest, standing or obligation, that can be used to make financial payment or to obtain cash, goods, property or services).

B. **“Personal Information” or “PI” means:**

i. The first name or first initial and last name of any Colorado resident, plus one of the following: social security number; employer, student, or military ID numbers; passport number; driver’s license or government/state-issued ID number; medical information; biometric data; health insurance ID number; or

ii. The username or email, in combination with a password or security questions (with answers) that would permit access to an online account; or

iii. The account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to that account.

C. **“Security Breach”** means the unauthorized acquisition of unencrypted computerized data that comprises the security, confidentiality, or integrity of Personal Information maintained by the Association. Good faith acquisition of personal information by an employee or agent of the Association for the Association’s business purposes is not a security breach if the personal information is not used for a purpose unrelated to the lawful operation of the business or is not subject to further unauthorized disclosure.

This Policy was adopted by the Board of Directors this 11 day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: 
Its: President

**CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC.
REGISTRATION OF PHONE NUMBER AND EMAIL ADDRESS**

Effective Date: November 11, 2025

1. Definitions. Unless otherwise defined below, capitalized terms shall have the meanings set forth in the Act and/or Declaration as applicable.
 - (a) “Owner” shall have the same meaning as in the Declaration.
 - (b) “Designated Contact” means a person that an Owner identifies to the Association to serve as a designated contact for the Owner to be contacted on the Owner’s behalf for purposes of compliance with C.R.S. §38 33.3-209.5 (1.7(a)(I)) of the Act.
 - (c) “E-Mail Address” means an electronic mail address.
 - (d) “Cellular Number” means a mobile number or cell phone number assigned to a mobile device that enables communication through cellular networks, including the ability to send and receive Text Messages.
 - (e) “Text Message” means a written message sent from one cellular phone to another.

2. Compliance with the Act. As part of its procedures for collecting unpaid assessments, the Act requires the Association to contact the delinquent Owner or their Designated Contact, by two of the following means:
 - (a) Telephone call to a telephone number that the Association has on file because the Owner or Designated Contact provided that number to the Association;
 - (b) Text Message to a Cellular Number that the Association has on file because the Owner or Designated Contact has provided the cellular number to the Association;
 - (c) E-Mail to an E-Mail Address that the Association has on file because the Owner or Designated Contact has provided the e-mail address to the Association.

The Act further provides that if the Owner or Designated Contact has not provided a telephone number, cellular number, or email address, the Association may satisfy this contact requirement via regular mail.

3. Registration of Phone and Email Address. Each Owner and their Designated Contact, if applicable, are requested to register their Cellular Number, telephone number (if different from Cellular Number), and E-Mail Address with the Association using any reasonable registration method adopted by the Association. The Association shall periodically request this information from each Owner and their Designated Contact, if applicable, and shall maintain it in the Association’s records.

All contacts intended to be made by the Association to comply with C.R.S. §38-33.3-209.5(1.7(a)(I)) of the Act, will be made using the registered Cellular Number, telephone number, and E-Mail Address provided by the Owner or their Designated Contact.

If the Association attempts to contact the Owner or their Designated Contact by telephone but is unable to do so, the Association shall, if possible, leave a voice message for the Owner or Designated Contact.

4. Update of Contact Information. It is the responsibility of the Owner and their Designated Contact, if applicable, to keep their Cellular Number, telephone number, and E-Mail Address current with the Association using the registration method adopted by the Association.

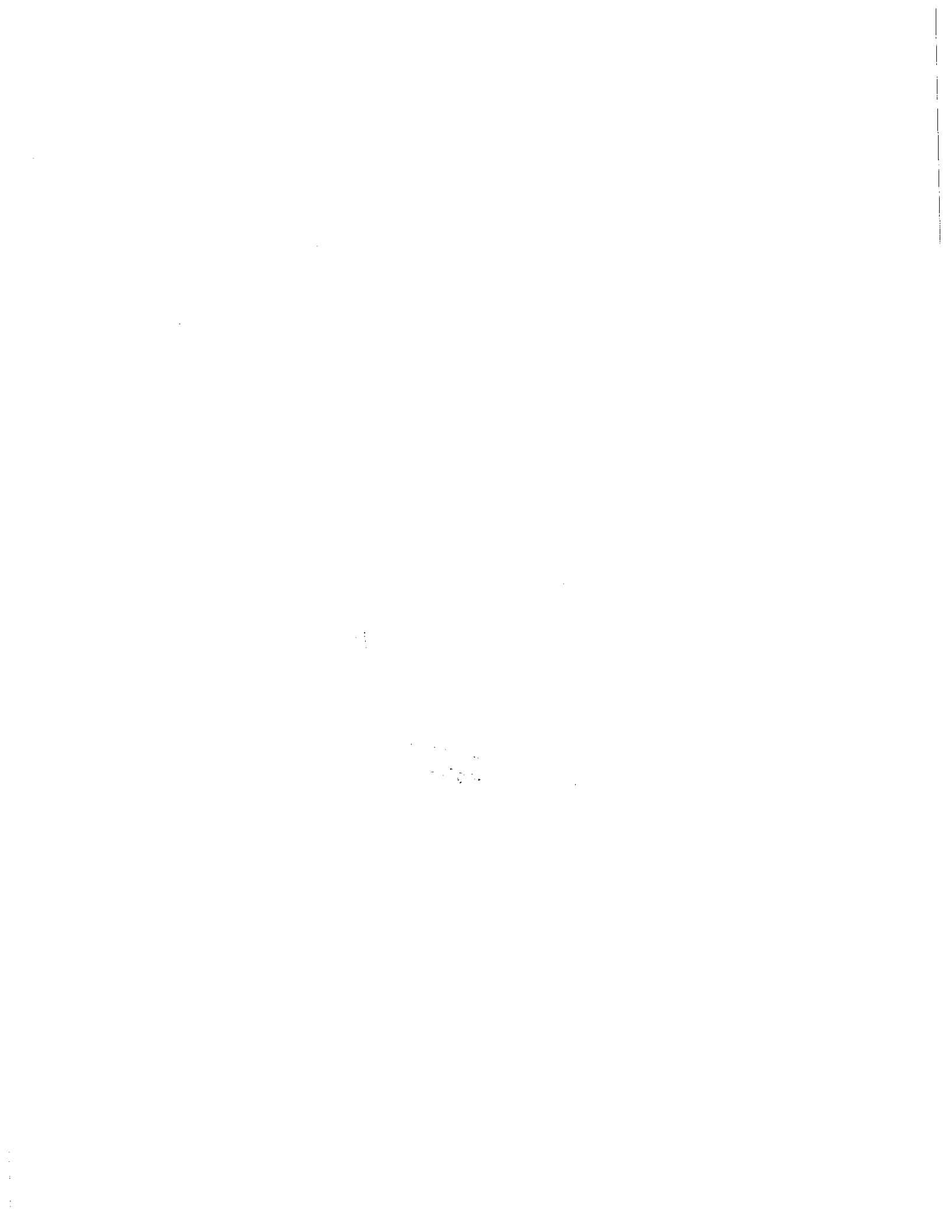
Further, should the Association receive a response indicating an invalid number, blocked recipient, disconnected phone, etc., the Association shall not be required to seek any new valid information from the Owner or their Designated Contact. In such case, the Owner acknowledges that the Association is unable to provide the notice required pursuant to C.R.S. §38-33.3-209.5(1.7(a)(I)) of the Act.

5. Request for Contact Information Before Initiating Foreclosure. If required by Colorado law and if the Association does not already have the information, prior to sending a notice of intent to foreclose on a property, the Association shall request from the Owner or the Owner's Designated Contact, a telephone number for phone calls, a cellular number for texts, and an email address for emails.

This Policy was adopted by the Board of Directors this 11 day of November, 2025.

CONFLUENCE AT TWO RIVERS COMMUNITY
ASSOCIATION, INC., a Colorado nonprofit corporation

By: 
Its: President



**Minutes of a Meeting of the Members of the Board of Directors of
Confluence at Two Rivers Community Association, Inc.**

Pursuant to a call of the Declarant, the members of the Board of Directors of the Association were present at a meeting of the Board or signified their assent to these Minutes as indicated by signature.

Meeting Location

The meeting was held at 245 Chapel Pl. Suite C201, Avon, CO 81620, on November 11, 2025 at 10:00 a.m.

Call to Order/Temporary Officers

Michael Pearson called the meeting to order and on motion duly made, seconded and unanimously carried was appointed temporary Chairperson.

Upon motion duly made, seconded and unanimously carried, Kathleen Jane McEvoy was appointed temporary Secretary.

Declarant Appointment of Initial Board Members

The temporary Chairperson announced that pursuant to reserved rights of the Declarant, the Declarant had appointed Michael Pearson, Kathleen Jane McEvoy and Jessica Vanderveide as the initial members of the Board of Directors.

The temporary Chairperson announced that owners/members will be entitled to elect members of the Board of Directors at a later time, pursuant to the provisions of the Declaration and CCIOA.

Initial Officers

The temporary Chairperson called for nominations for the offices of President, Secretary and Treasurer of the Association for the ensuing year and until the successor of each is chosen and qualified.

The following persons were nominated for the indicated offices:

<u>Office</u>	<u>Nominee</u>
President	<u>Michael Pearson</u>
Secretary	<u>Kathleen Jane McEvoy</u>
Treasurer	<u>Jessica Vanderveide</u>

All the Directors present having voted, the temporary Chairperson announced that the aforementioned had been unanimously elected to the offices set forth before their respective names, to serve until the election and qualification of respective successors.

Assumption of the Responsibilities of Officers

The President then assumed the duty of Chairperson of the meeting.

Approval of Articles of Incorporation

The President then presented to the meeting the Articles of Incorporation as filed with the Colorado Secretary of State.

Upon motion duly made, seconded, and unanimously carried, the Articles of Incorporation were unanimously approved by all members and the Board of Directors.

The President directed that a copy of the Articles of Incorporation be maintained as a part of the permanent corporate records of the Association.

Approval of Bylaws

The President next presented proposed Bylaws for the Association.

It was moved, seconded and unanimously carried that the Bylaws be adopted as presented, without alteration, as and for the Bylaws of the Association.

The Bylaws were then presented to and signed by the President of the Association.

The President then directed that the Bylaws be inserted in the permanent corporate records of the Association.

Approval of Banking/Bank Accounts/Reserve Funds

The President next stated that he believed it may be desirable to open a bank account for the Association at a bank in the area, and to adopt a resolution in any form requested by the bank.

The President recommended that all accounts of the Association be maintained separate from all other entities, including a separate reserve account.

After discussion, upon motion made, seconded and unanimously carried, it was:

Resolved, that the Association establish at least two bank accounts: one as an operating account and another as a reserve account for capital replacements.

Resolved, further, the Association may also establish such other bank accounts, as it deems appropriate.

Resolved, further, that the reserve account for capital replacements is the account into which reserves for capital replacements will be transferred from the operating account, on a periodic basis. This account may require two or more signatures. Withdrawals from this account are not to be made without approval of the Board.

Resolved, further, that the Officers whose signatures are required by the bank be and are hereby authorized and directed to complete and execute the resolution forms for the establishment of accounts and for borrowing purposes as requested by the bank, and retain a copy of those resolutions for inclusion in the permanent records of the Association.

Resolved, further, that all of the resolutions as complete and executed with the bank are to be adopted as resolutions of the Board of Directors at this Meeting.

Approved Budget

The President next presented a proposed budget for the Association.

The President noted that the budget provides for the Association's estimated costs of maintaining the areas that are to become Common Elements, fulfilling its duties and powers, and other expenses. The budget may be updated from time to time as allowed by the Declaration.

After much discussion and review of the adequacy of each line item, and after motion duly made, seconded and unanimously carried, it was:

Resolved, that the budget attached is the initial budget of the Association, from which the annual assessments and monthly installments are to be determined and allocated pursuant to the Declaration.

Resolved, further, that until the first day of the month in which the first Townhome is conveyed to an Owner other than the Declarant, the budget of the Association will be on a monthly basis and, for each month, will be equal to the Common Expenses paid during that month. Commencing on the first day of the month in which the first Townhome is conveyed to an Owner other than the Declarant, the budget attached becomes effective.

Resolved, further, that any duly elected Officer and any designated employee of any manager of the Association is authorized to execute a statement of unpaid Common Expense assessments, pursuant to the Bylaws, provided the Officer or employee has examined the books of account of the Association with respect to the particular Townhome designated. A charge of \$350 may be made for the preparation and delivery of this certificate.

Insurance to Be Maintained by the Association

The President then presented a proposal to cover the insurance requirements of the Association as set forth in the Declaration.

After much discussion and review of the proposal, and after motion duly made, seconded and unanimously carried, it was:

Resolved, that the insurance agency or broker selected by the President is designated as the insurance agency or broker for the Association. The President is authorized to obtain from said agency or brokerage all insurance and fidelity bonds required by the Declaration, the Bylaws, the resolutions adopted by the Board of Directors contained in the minutes and the legal documents for the Community. To the extent available, the insurance agent is directed to obtain a Directors and Officers' Liability coverage for all Officers and Directors of the Association, including those appointed by the Declarant.

Insurance to Be Maintained by Owners, Renters, and Lessees

The President noted that Owners, renters and lessees should maintain the types and amounts of insurance that the Declaration requires for their home and that their insurance agent and/or lenders may require.

Protection for Board Members

The President next raised the ability of the Association to eliminate or limit the personal liability of Directors for monetary damages, as allowed under Colorado statutes.

After discussion, motion duly made, seconded, and unanimously carried, it was:

Resolved, that no member of the Board of Directors is to be liable to the Association or any member or creditor of the Association for monetary damages arising from breach of fiduciary duty as a Director. This resolution does not eliminate or limit the liability of a Director to the Association or to members for monetary damages for:

- (i) any breach of a Director's duty of loyalty;

- (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- (iii) acts specified in C.R.S. § 7-128-403 and § 7-128-501(2); or
- (iv) any transaction from which a Director derived an improper personal benefit.

Association Operations/Contracts

The President next discussed operation of the Association.

After much discussion and motion duly made, seconded and unanimously carried, it was:

Resolved, that the Officers of the Association are authorized and empowered to enter into ordinary contracts to conduct the business and affairs of the Association, in the name of and on behalf of the Association, without further approval or action of the Board of Directors, subject to the budget.

Resolved, further, the Officers of the Association are authorized and empowered to hire and fire employees and independent contractors as they deem appropriate, without further approval or action of the Board of Directors, subject to the budget.

Resolved, further, that all actions taken by the Association prior to the date of these minutes by the persons initially designated as members of the Board of Directors, by the present Board of Directors and by the Officers designated in these minutes are ratified and approved in all aspects.

Governance Policies

The President next discussed promulgation and adoption of governance policies, for the Community. The President proposed that the attached Governance Policies be adopted. The following resolution was made, seconded, and unanimously carried:

Resolved, that the attached Governance Policies are adopted.

Rules and Regulations

The President next discussed promulgation and adoption of rules and regulations for the Community. The President proposed that the attached Rules and Regulations be adopted. The following resolution was made, seconded, and unanimously carried:

Resolved, that the attached Rules and Regulations are adopted.

Association Disclosures

The question of disclosures of the Association was next addressed.

After discussion, and upon motion duly made, seconded, and unanimously carried, it was:

Resolved, that disclosures be made by the Association via a Notice, in the form attached, which Notice is authorized to be recorded.

Fiscal Year

The question of a fiscal year for the Association was next discussed.

After much discussion, and upon motion duly made, seconded, and unanimously carried, it was:

Resolved, that the Directors adopt a fiscal year for the Association with a year- end of December 31.

Assessment Payment Frequency

The question of the frequency of Assessment payments described in Section 6.6(e) of the Declaration was next discussed.

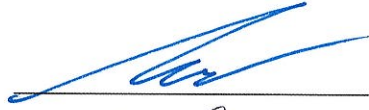
After much discussion, and upon motion duly made, seconded, and unanimously carried, it was:

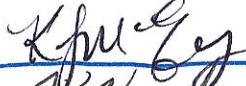
Resolved, that in accordance with Section 6.6(e) of the Declaration, the Directors have determined that Assessments shall be payable in quarterly installments.

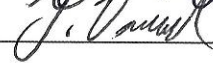
Adjournment

There being no further business to come before the meeting, it was, upon motion duly made, seconded and unanimously carried, adjourned.

The undersigned, being all of the members of the Board of Directors of the Confluence at Two Rivers Community Association, Inc. by their signature below, certify that they have read the foregoing Minutes; that if present, they participated in said meeting as stated in said Minutes; that if absent, they take, approve, ratify and confirm all business transacted as stated; and each of the undersigned waives any and all notice of the time, place and purpose of such meeting to which he otherwise may have been entitled.







Approved by Declarant:

FCAP Confluence, LLC
A Colorado limited liability company

By: 

Initial Budget

[To be attached]

Governance Policies

[To be attached]

Rules and Regulations

[To be attached]

Notice

[To be attached]

RECORD OF PROCEEDINGS

Confluence at Two Rivers Community Association Board of Directors Meeting December 29, 2025

MINUTES OF THE BOARD OF DIRECTORS MEETING CONFLUENCE AT TWO RIVERS COMMUNITY ASSOCIATION, INC. DECEMBER 29, 2025

A meeting of the Board of Directors of the Confluence at Two Rivers Community Association, Inc. was duly called and noticed via Zoom.

ATTENDANCE **The following directors were present and acting:**

- Mike Pearson
- KJ McEvoy
- Jessica Vandavelde

Also in attendance were:

- Ken Marchetti, Marchetti and Weaver
- Magdalena Gembal, Recording Secretary for the Meeting
- Craig Plizga, Community Operations Manager

Call to Order The meeting of the Executive Board of the Confluence at Two Rivers Community Association was called to order on December 29, 2025 at 10:01 a.m., noting a quorum was present.

Consideration of the Agenda None.

Public Input None.

Operations Manager Mr. Craig Plizga introduced himself as the Operations Manager, noting he has served in this role for approximately five years and currently oversees operations for the Two Rivers Metropolitan District, Two Rivers Village HOA, and Confluence at Two Rivers Community Association. Mr. Marchetti provided clarification on the structure of the three entities:

- The Two Rivers Metropolitan District is responsible for infrastructure, including roads, water, sewer, and public amenities.
- The Two Rivers Village HOA governs the original single-family homes.
- The Confluence at Two Rivers Community Association governs the 46-unit Confluence development.

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Mr. Marchetti noted that Craig Plizga is employed through the Metropolitan District, with costs allocated across the entities pursuant to contractual agreements, which will be reviewed and updated as needed.

Following introductions, Mr. Plizga presented his Operations Manager Report:

- Snow plowing services are in place for parking lots and sidewalks and will be performed following snow accumulations of two inches or more.
- Mr. Plizga addressed parking enforcement, noting that parking is permitted with proper permits and that booting may be necessary for enforcement. Director Pearson confirmed this approach and noted that adjustments may be made as needed.
- Regarding trash services, Mr. Plizga explained that the south enclosure currently contains one 4-yard and one 3-yard dumpster. Use of a 6-yard dumpster in the south enclosure was discussed but determined to be impractical due to space constraints and lack of wheels, which would make servicing difficult. It was agreed to retain the 4-yard and 3-yard dumpsters in the south enclosure and will start using 6-yard dumpsters in the north enclosure once needed.

A resident inquired of Mr. Plizga about exterior painting and antenna installation. It was clarified that residents may not paint the exterior of their homes. Antenna installations require further review to ensure consistency with governing documents. It was noted that Starlink equipment may be installed on a deck corner, with cable routed into the home.

It was also clarified that common property includes parking lots, sidewalks, common areas, trash enclosures, and courtyards, all of which will be maintained and replaced by the Association. Replacements are expected to be funded with reserve fund assessments.

Accounts Payable

The Board reviewed the accounts payable process, noting that invoices are sent to the President via email for review. Once approved via email, they are released through Alpine Bank's Bill Pay application, with ratification to occur at Board meetings to ensure segregation of duties and transparency. The Board reviewed the December 2025 accounts payable list. By motion duly made and seconded it was unanimously

RESOLVED to ratify the December 2025 accounts payable lists as presented.

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Ratification of Marchetti & Weaver, LLC Engagement Letter

The Board reviewed the engagement letter with Marchetti & Weaver, LLC outlining accounting, administrative, and tax preparation services. By motion duly made and seconded it was unanimously

RESOLVED to ratify the engagement letter with Marchetti & Weaver, LLC as presented.

Ratification of Rocky Mountain Custom Landscape Snow Removal Agreement

The Board discussed the approved snow removal agreement. Concerns were raised regarding the frequency of service given the late start of the season. By motion duly made and seconded it was unanimously

RESOLVED to authorize Craig Plizga to renegotiate the service frequency and ratify the agreement once revised.

Approval of American Conservation and Billing Solutions Agreement

The Board reviewed a billing services agreement by American Conservation and Billing Solutions (AmCoBi) consistent with existing agreements used by other Two Rivers entities with the same cost per billing. By motion duly made and seconded it was unanimously

RESOLVED to approve the agreement with AmCobi as presented.

Approval of Rocky Mountain Custom Landscape Landscaping Agreement

A preliminary landscaping proposal was reviewed for budgeting purposes. The Board expressed a desire to obtain additional bids, including from Fresh Mountain Lawns, and to further evaluate scope and pricing.

Discussion and Approval of Preliminary 2026 Budget

Mr. Marchetti presented the proposed 2026 budget, noting anticipated unit closings and projected revenues and expenses through full buildout.

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Replacement reserve contributions were discussed, along with the use of working capital assessments to manage early cash flow. A contingency line item was included to address potential shortfalls during the initial years of operation. The Board discussed a proposed 4% increase in operating and reserve assessments for 2026. By motion duly made and seconded it was unanimously

RESOLVED to approve the 2026 budget as presented.

**First Amendment To Declaration
of CCRs and Hold Harmless
and Indemnification Agreement
(Construction Phase)**

The Board discussed a proposed First Amendment to the Declaration of CC&Rs related to hold harmless and indemnification provisions during the construction phase. Management explained that the Association's insurance advisor recommended the amendment to better protect the Association from potential liabilities arising during construction. The proposed amendment language was included in the Board packet for review. It was noted that the amendment is a recommendation only and has not yet been reviewed by legal counsel. Management will consult with legal counsel, in coordination with the declarant, to determine feasibility and appropriateness of the amendment.

**Set Date for Future
Meetings**

The Board discussed CCIOA requirements related to developer (declarant) transition. It was noted that once 25% of units are sold, a member meeting and election may be required. Management will confirm requirements with legal counsel as Director Vandeveld was appointed at the organizational meeting. The Board expressed interest in transitioning to elected homeowner representation as early as feasible. The requirement for an independent audit at declarant turnover was discussed. Management will explore whether alternatives exist and report back to the Board. The Board agreed to continue meeting on an as-needed basis during the development transition period, with the expectation of establishing a more formal schedule as the community matures.

Adjournment

There being no further matters for discussion, the meeting was adjourned at 10:45 a.m.

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Respectfully submitted,

Magdalena Gembal
Recording Secretary for the Meeting