

**Directors and Officers Liability and Reimbursement**  
Coverage Part for Condominiums Associations

**Declarations**

**POLICY NO.**

**Item 1.** Named Insured and Mailing Address:

**Item 2.** Policy Period: From \_\_\_\_\_ to \_\_\_\_\_  
at 12:01 A.M. Standard Time at the mailing address shown above

**Item 3.** Limits of Liability:

Each Loss \$ \_\_\_\_\_  
Aggregate \$ \_\_\_\_\_

**Item 4.** Retention of Each Loss:

**Item 5.** Retroactive Date (for Claims Made Coverage Only)

This insurance does not apply to a "wrongful act" which occurs before the Retroactive Date, if any, shown below:

\_\_\_\_\_  
(Enter Date or "None" if no Retroactive Date applies)

**Item 6.** Premium:

Premium for this Coverage Part \$ \_\_\_\_\_

Premium shown is payable:

\$ _____	at inception
\$ _____	1 <sup>st</sup> Anniversary
\$ _____	2 <sup>nd</sup> Anniversary

Countersigned: \_\_\_\_\_

by \_\_\_\_\_  
Authorized Representative

Date: \_\_\_\_\_

## **Directors and Officers Liability and Reimbursement**

### *Coverage Part for Condominiums Associations*

The Declaration Page together with the Directors and Officers Liability and Reimbursement form SSS-0368-0115 and the completed application its attachments and any endorsements shall constitute the insurance contract between the insured and the insurer.

#### **(Claims Made Basis)**

#### **I. Insuring Clause**

In consideration of the payment premium, statements made to the insurer by application and subject to all the terms, conditions and exclusions of this insurance, TRIPLE - S PROPIEDAD, herein call the "Insurer", agrees as follows:

- (a) with the Directors and Officers of the "Association", that, if during the policy period any claim or claims are first made against any of the Directors and Officers for a "Wrongful Act", (as defined herein) the Insurer shall pay on behalf of such Directors and Officers all loss (as defined herein), for which such Directors and Officers shall become legally obligated to pay, except for such loss which the "Association" shall indemnify such Directors and Officers;
- (b) with the "Association" that, if during the policy period any claim or claims are first made against any of the Directors and Officers of the Company for a Wrongful Act, (as defined herein) the Insurer shall pay on behalf of the "Association" all loss (as defined herein), for which the "Association" may be required or permitted by law to indemnify such Directors and Officers.

#### **II. Definitions**

- (a) "Association" shall mean:
  - (1) the "Association" named in Item 1 of the Declarations;
  - (2) any subsidiary – provided said subsidiary is a servicing Company rendering essential services to the Insured Named herein;
- (b) Directors and Officers shall mean:
  - (1) any persons who were, now are, or shall be Directors and/or Officers and their spouses of the Company while acting in their capacity as such for the "Association" named in Item 1 of the Policy Declarations;
  - (2) the estates, heirs, legal representative or assigns of deceased persons who were Directors and/or Officers of the Company;
  - (3) the legal representative or assigns of Directors and/or Officers of the "Association" in the event of their incompetence, insolvency or bankruptcy;
- (c) "Wrongful Act" shall mean any actual or alleged error, misstatement or misleading statement, or act or omission, or neglect or breach of duty by the Directors or Officers in the discharge of their duties, individually or collectively, or any action against them solely by reason of their being Directors or Officers of the "Association".
- (d) "Loss" shall mean any amount which the Directors and Officers are legally obligated to pay for which they are not indemnified by the Company or for which the "Association" may be required or permitted by law to pay as indemnity to the Directors and Officers, for a claim or claims made against them for "Wrongful Acts", and shall include, but not be limited to, damages, judgments, settlements and costs, cost of investigation (excluding from such costs of investigation and defense, salaries of officers or employees of the Company), and amounts incurred in the defense of legal actions, claims or proceedings and appeals therefrom, cost of attachment or similar bonds, providing always, however, such subject of loss shall not include fines or penalties imposed by law, or matters which may be deemed uninsurable under the law pursuant to which this coverage part shall be construed.
- (e) "Subsidiary" shall mean any Company more than 50% owned by the Insured Named in Item 1 of the Declarations or any Company more than 50% owned by such subsidiary.
- (f) "Policy Period" shall mean the period so stated in the Declarations, or its earliest termination date if any. If the extended discovery period option is exercised in accordance with Paragraph II then such be part of and not in addition to the last policy period.

#### **III. Exclusions**

- (a) The Insurer shall not be liable to make any payment for any claim made:
  - (1) any injury with respect to which other insurance is afforded.
  - (2) for which the Directors and Officers are entitled to indemnity and/or payment by reason or having given notice of any circumstances which might give rise to a claim under another policy period, other than the one stated on this policy;
  - (3) for bodily injury, sickness, disease, or death of any person, or for damage to or destruction of any tangible property, including consequential damages and loss of use resulting therefrom;
  - (4) based upon or arising out of the Securities Act of 1933; the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisors Act of 1940, the Public Utilities Holding Company of 1935; or to any amendments or of additions to any of these Acts; or any State Blue Sky or Securities Laws, as the same may now exist or may be amended; or the rules and regulations of any security, commodity or similar exchange;
  - (5) for libel or slander;

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- (6) based upon or attributable to their gaining in fact any personal profit or advantage to which they were not legally entitled;
  - (7) for the return by the Directors or Officers of any remuneration paid in fact to them without the previous approval of the stockholders of the "Association", if payment of such remuneration shall be held by the Courts to be violation of law;
  - (8) for loss due to or arising out of nuclear reaction, nuclear radiation or radioactive contamination, or to any act or condition incidental to any of the foregoing;
  - (9) based upon or attributable to any failure to effect, maintain or procure insurance of any bond, or with respect to amount, form, conditions or provisions of insurance or bonds;
  - (10) arising out of or in any way connected with discrimination on account of race, religion, sex or age or any other type of discrimination, or with a violation of any Municipal, State or Federal Civil Rights Law, regulation or ordinance;
  - (11) brought about or contributed to by the dishonesty of the Directors and Officers however, notwithstanding the foregoing, the Directors and Officers shall be protected under the terms of this policy as to any claims upon which suit may be brought against them by reason of any alleged dishonesty on the part of the Directors or Officers, unless a judgment or other final adjudication thereof adverse to the Directors or Officers shall establish that acts of active and deliberate dishonesty committed by the Directors or Officers with actual dishonest purpose and intent were material to the cause of action so adjudicated;
  - (12) arising from charges of seepage, pollution or contamination and based upon or attributed to violation or alleged violation of any federal, state, municipal or other governmental statute, regulation or ordinance prohibiting or providing for the control or regulation of emissions or effluents of any kind into the atmosphere or any body of land, water, waterway or watercourse or arising from any action or proceeding brought for enforcement purposes by any public official, agency, commission, board of pollution control administration pursuant to any such statutes, regulations or ordinances or arising from any suit alleging seepage, pollution or contamination based upon Common Law nuisance, trespass or negligence;
- (b) The Insurer will not be liable for any punitive damages.
- (c) This policy excludes all claims arising from all pending or prior litigation as well as all future claims arising out of said pending or prior litigations.
- (d) The insurer shall not be liable to make any payment for loss in connection with any claim made against the Directors or Officers, based upon or attributable to, or arising of, or in any way involving:
- (I) Payments, commission, gratuities, benefits or any other favors to or for the benefit of any full or part-time domestic or foreign governmental or armed services, officials, agents, representatives, employees or any members of their family or any entity with which they are affiliated; or
  - (II) Payments, commission, gratuities, benefits or any other favors to or for the benefit of any full or part-time officials, agents, representatives, principal shareholders, or owners or employees, or affiliates (as that term is defined in The Securities Exchange Act of 1934), including any of their officers, directors, agents, partners, representatives, principal shareholders, or owners or employees) or any members of their family or any entity with which they are affiliated; or
  - (III) Political contributions, whether domestic or foreign
- (e) **Guarantees & Warranties**  
This policy does not apply to losses due to assurances of contractual obligations or promises not complied with.
- (f) Claims against an Insured person brought by the Company of which he or she is an officer or director. This exclusion does not apply, however, to direct or derivative actions that are independent of influence by the Company or any Insured person.
- (g) Claims against an Insured person brought by an outside entity for a wrongful act committed by the Insured in the capacity of an officer or director of the outside entity. This exclusion does not apply, however, to direct or derivative action suits by shareholders of the outside entity who are free of influence by the Company or any Insured person.

#### **IV. Limits of Liability**

- (a) The insurer shall be liable to pay the loss in excess of the retention up to the amounts hereinafter stated, it being warranted that the remaining retention of each and every loss shall be carried by the insured at their own risk and are uninsured.
- (b) The total limit of liability for all losses Insured hereunder subject to the above provision regarding "each loss" shall be the amount stated in item 3 of the Declarations as "aggregate".
- (c) This policy is only to pay the excess over the retention amount stated in Item 4 of the Declarations in respect of each and every loss hereunder, including costs, charges and expenses as described in Clause VI. The retention amount stated in Item 4 of the Declarations is to be borne by the Insured and is not to be insured. Losses arising out of the same act or interrelated acts of one or more of the Insureds shall be considered a single loss and only one retention amount shall be deducted from the aggregate amount of such losses.
- (d) Payment will be subject to the foregoing provisions and to all the costs, charges and expenses as provided herein.

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#### **V. Cost, Charges and Expenses and Defense**

- (a) No costs, charges and expenses shall be incurred without the Insurer's consent which shall not be unreasonably withheld; however, in the event of such consent being given, Insurers will pay, subject to the provisions of Clause V, 95% of all such costs, charges and expenses; subject nevertheless to the following conditions:
  - (1) If a payment have to be made to dispose of a claim not in excess of the limit of liability, costs, charges and expenses shall be payable in addition to the limit of liability.
  - (2) If the claim is successfully resisted by the Insurers, costs, charges and expenses shall be payable up to but not exceeding the limit of liability under this policy.
  - (3) If a payment has to be made to dispose of a claim in excess of the limit of liability under this policy, the Insurer's liability to pay costs, charges and expenses in connection therewith shall be limited to such proportion of the said costs, charges and expenses as the limit of liability herein bears to the amount paid to dispose of the claim, but the Insurer's liability as aforesaid to pay costs, charges and expenses shall be in addition to the limit of liability otherwise applicable under this policy.
- (b) The Insureds shall not be required to contest any legal proceedings unless counsel (to be mutually agreed upon by the Insureds and Insurer) shall advise that such claim should be contested by the Insureds and the Insurers consent thereto, such consent not to be unreasonably withheld. In the event of the Insureds being so required to contest legal proceedings, the Insurer, subject to the provisions of Clause V and notwithstanding the provisions of Paragraph (a) of this Clause VI, will pay 95% of all costs, charges and expenses in connection therewith, in addition to the limit of liability of otherwise applicable under this policy.
- (c) The words "costs, charges and expenses" shall include the cost of any appeal, attachment or similar bond.

#### **VI. Loss Provisions**

- (a) The time when a loss shall be incurred within the meaning of this policy shall be the date on which the "Association" named in Item 1 of the Declarations of the Insureds shall give written notice to the Insurer as hereinafter provided.
- (b) If during the policy period or extended reporting period any claim is made against any Director or Officer, the "Association" or the Directors and Officers shall, as a condition precedent to their right to be indemnified under this insurance, give to the Insurer notice in writing as soon as practicable of any such claim.
- (c) If during the policy period or extended discovery period:
  - (1) the "Association" or the Directors and Officers shall receive written or oral notice from any party that is the intention of such party to hold the Directors and Officers, or any of them for a Wrongful Act;
  - (2) shall in either case during such period give written notice as soon as practicable to the Insurer of the receipt of such written or oral notice or of any such fact, circumstance or situation, then any claim, which may subsequently be made against the Directors and Officers, arising out of such Wrongful Acts shall for the purposes of this coverage part be treated as a claim made during the policy year in which such notice was given, or, if given during the extended discovery period, as a claim made during the last policy period.
- (d) This policy provides coverage for loss arising from claims by reason of Wrongful Acts (as herein defined) occurring only after the Retroactive Date, if any, shown in the Declarations or which may occur during the policy period and before the cancellation date or termination date of said policy.

#### **VII. General Conditions**

- (a) **Representations**

All statements and descriptions in the application means that they are representations and not warranties. The Declarations are the basis of this coverage part and are to be considered as incorporated in and constituting part of this policy.
- (b) **Extended Reporting Period**

If the Insurer shall cancel or refuse to renew this coverage part, the "Association" or the Directors and Officers shall have the right, upon payment of an additional premium of up to 100% of the annual premium hereunder, to an extended reporting period granted by this coverage part in respect to any claim or claims which may be first made against any of the Directors and Officers 365 days after the effective date of such cancellation or non-renewal, but only in respect of any "Wrongful Act" committed or alleged to have been committed before the effective date of cancellation or non-renewal and after the retroactive date of the coverage part. This right of extension shall terminate unless written notice is given to the Insurer within thirty (30) days after that effective date of cancellation or non-renewal.

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(c) Cancellation Clause

Notwithstanding anything contained in this policy to the contrary this policy may be cancelled by the "Association" named in Item 1 of Declarations or the Insureds at any time by written notice or by surrender of this policy.

This policy may also be cancelled by or on behalf of the Insurer by delivering to the Insured Named in Item 1 of the Declarations or by mailing to the "Association" named in Item 1 of Declarations, at its mailing address as shown in Item 1 of the Declarations, written notice stating when, not less than thirty (30) days thereafter, the cancellation shall be effective. The mailing of such notice as foresaid shall be sufficient proof of and this policy shall terminate at the date and hour specified in such notice. If this policy shall be cancelled by the "Association" named in Item 1 of the Declarations or the Insureds, the Insurer shall retain the customary short rate proportion of the premium hereon.

If this policy shall be cancelled by the Insurer, the Insurer shall retain the pro rata proportion of the premium hereon.

Payment or tender of any unearned premium by the Insurer shall not be a condition precedent to the effectiveness of cancellation.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(d) Subrogation

In the event of any payment under this policy, the Insurer shall be subrogated to the extent of such payment to all the Insureds rights of recovery therefore, and the Insurer shall execute all papers required and shall do everything that may be necessary to enable the Insurer effectively to bring suit in the name of the Insureds'.

(e) Notice

By acceptance of this policy, the "Association" named in Item 1 of the Declaration agrees to act on behalf of all Insureds with respect to the giving and receiving of notice of claim or cancellation, the payment of premiums and the receiving of any return premiums that may become due under this policy.

The "Association" and the Directors shall give the Insurer such information and cooperation as they may reasonably require.

(f) Actions Against the Insurer:

No action shall lie against the Insurer to recover for any loss under this insurance unless as a condition precedent thereto, the Insured has fully complied with all the terms and conditions of this insurance.

(g) Assignment

This insurance shall be void if assigned or transferred without the prior written consent of the Insurer.

(h) Changes

This Coverage contains all agreements between the insured and the insurer concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this Coverage with the insurer consent. The coverages terms can be amended or waived only by endorsement issued by the company and made a part of this Coverage Part.

(i) Conformance with statutes

Terms of this coverage part which are in conflict with the statutes of those states wherein certain provisions and coverage's included under this coverage part are not permitted are hereby amended to cover only those provisions and coverage's as apply and conform to such statutes.

(j) 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.