

ARTICLE V
INSURANCE

Section 5.01 Insurance Requirements: The Association shall be responsible and obligated to purchase and maintain at all times the following types of insurance:

A. Comprehensive General Liability and Property Insurance. Comprehensive general liability and property damage insurance covering all Common Areas and all other areas under the jurisdiction or control of the Association shall be purchased by the Association and shall be maintained in full force and effect at all times. Such insurance policy or policies shall contain, if available, a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of a Dwelling Unit Owner because of negligent acts of the Association or of any other Dwelling Unit Owners. The scope of coverage of such policy or policies must include all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use as

least ten (10) days written notice to the Association. In connection with such coverage, and appropriate endorsement to the policy to cover any persons who serve without compensation shall be added, if the policy would not otherwise cover volunteers.

E. Minimum Financing Rating Carrier. Each hazard insurance policy obtained by the Association pursuant to the foregoing shall be written by hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class VI or better and a general policy holder's rating of at least B. Hazard insurance policies shall also be acceptable from an insurance carrier which has a financial rating by Best's Insurance Reports of Class V, provided that such insurance carrier has a general policyholder's rating of at least A. Each such carrier shall be specifically licensed or authorized by law to transact business in the State of Arizona.

Policies shall be unacceptable where:

(1) Under the terms of the carrier's charter, by-laws, or policy, contributions or assessments may be made against a Dwelling Unit Owner or the designee of the Federal Home Loan Mortgage Corporation, or the Federal Housing Authority or the Veterans Administration; or

(2) By the terms of the carrier's charter, by-laws, or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members; or

(3) The Policy includes any limiting clauses (other than insurance conditions) which could prevent the Federal Home Loan Mortgage Corporation, Federal Housing Administration or the Veterans Administration or any Dwelling Unit Owner from collecting insurance proceeds.

F. In General. Every policy of insurance obtained by the association shall contain an express waiver, if available, of any and all rights of subrogation against Declarant, Developer, the Board, and such other persons or entities affiliated with the Association such as a manager and their representatives, members and employees and a provision, if available, preventing any cancellation or mortgages. In addition, every policy of insurance obtained by the Association shall provide, if available, for the payment of assessments which the insured property is obligated for under this Declaration until the insured property is repaired and made habitable. The liability insurance hereinabove specified shall name as separately protected insured Declarant, Developer, the Association, the Board, and such other persons or entities affiliated with the Association such as a manager and their representatives, members and employees as their

interest may appear with respect to any liability arising out of the maintenance or use of any insured property. As to each such policy, which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Declarant, the Board, the Developer and such other persons or entities named in said persons, but only to the extent that insurance proceeds are received in compensation for such loss. An "Agreed amount and inflation guard endorsement" should be included in the policies, and if the construction or building code may require changes to undamaged portions of the property even when only part of the project is damaged or destroyed, and endorsement covering same must be included in the insurance policies.

G. Insurance Premiums. Premiums for insurance purchased or obtained by the Association shall be a common expense payable through assessments of Dwelling Units and all such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee for each of the Owners.

H. Additional Optional Insurance by Owner. In addition to the aforesaid insurance required to be carried by the Association, any Owner may, if he/she wishes, at his/her own expense, carry any and all other insurance he/she deems advisable; however, if available, said policy or policies shall provide that there shall be no contribution or offset between policies of the Association and policies an individual Owner may have in effect. It shall be the individual responsibility of each Owner at his/her own expense, to provide as he/she sees fit, Owner's liability insurance, theft and other insurance covering personal and real property damages and loss.

I. Destruction/Insurance Proceeds. In the event of a substantial damage or destruction of any Dwelling Unit or any part of the Common Area, any first mortgage on a Dwelling Unit will be entitled to timely written notice of any such damage or destruction and no Owner of a Dwelling Unit or other party shall have priority over such first mortgagee with respect to the distribution to such unit Owner of any insurance proceeds.

Section 5.02 Condemnation Destruction

A. Condemnation

1. Taking. The term "taking", as used in this Section, shall mean either (a) condemnation by eminent domain, or (b) sale under threat of condemnation.

2. Authority of Board. In the event of a threatened taking of all or any portion of the Common Area, the Owners hereby appoint the Board and such persons as the Board may delegate to represent all of the Owners in

connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemn or in lieu of engaging in a condemnation action.

3. Partial Taking. In the event of a taking of less than all of the Common Area, the rules as to restoration and replacement of the Common Area and the improvements thereon shall apply as in the case of destruction of improvements upon the Common Area.

4. Distribution of Proceeds. Any awards received on account of the taking shall be paid to the Association. In the event of a total taking, the Board shall retain any award in the general funds of the Association. Notwithstanding anything to the contrary in this Section, the distribution of any award or awards for a taking of all or any portion of the Common Area shall be subject to the prior rights of Mortgagees.

B. Destruction.

1. Duty of Association. In the event of a partial or total destruction of the Common Area, Common Property or improvements thereon, it shall be the duty of the Association to restore and repair the same to their former condition as promptly as is practicable and in a lawful and workmanlike manner. The proceeds of any insurance maintained pursuant hereto shall be used for such purpose, subject to the prior rights of Mortgagees whose interests may be protected by said policies.

2. Destruction: Proceeds Exceed 80% of Reconstruction Costs. If the amount available from the proceeds of such insurance policies for such restoration and repair is at least eighty percent (80%) of the estimated cost of Restoration and repair, the improvements shall not be replaced or restored unless approved by the vote or written consent of Members entitled to exercise two-thirds (2/3) of the voting power of the membership of the Association.

a. Rebuilding Not Authorized: First Mortgagee Approval. Notwithstanding the foregoing, unless at least fifty-one (51%) of the Eligible Mortgage Holders, based on one (1) vote for each Mortgage held, have given their prior written approval, the Association shall not be entitled to use hazard proceeds for losses to any Common Area for other than the repair, replacement or reconstruction of such improvements.

b. Open Common Area: First Mortgagee Approval. In the event of a determination not to replace or restore the improvements on the Common Area, and provided that in the event of such determination the Association

shall obtain the additional written consent of fifty-one (51%) of such Eligible Mortgage Holders, based on one vote for each Mortgage held. the Common Area shall be cleared and landscaped for open Common Area to be used by the Owners pursuant to Article VI hereof, and the costs thereof shall be paid for with the insurance proceeds, and any deficiency may be raised by the levy of uniform Reconstruction Assessments in an amount determined by the Board.

4. Distribution of Proceeds; Excess Proceeds. In the event any excess insurance proceeds remain, the Board shall retain such sums in the general funds of the Association. Notwithstanding anything to the contrary in this Section 5.02 the distribution of any insurance proceeds for any damage or destruction to the Common Area shall be subject to the prior rights of Mortgagees.