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Disclaimer: The opinions expressed herein are those of the author and not of Stewart Title Guaranty Company or the American Land Title Association. They express the views of the author but each person should independently review and determine the applicable law and interpretation of the forms, and should not rely upon this material in any transaction.
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I. BACKGROUND OF 2006 POLICY DEVELOPMENT

The predominant title insurance forms in use today are the American Land Title Association (ALTA) policies, although some proprietary policies are issued by title insurers. Standardization of forms occurred primarily because of lender demand for predictable forms that would not need to be read and negotiated.

The need for uniform title insurance policies became evident in the 1920's: because of the proliferation of forms by the title industry and by life companies, the ATA (American Title Association, predecessor to the ALTA) developed a standard loan policy in 1929, as was explained in the Title News:

"The history of the matters covered by title insurance is a parallel to that of the development of other forms of insurance. The early policies of all insurance were rather vague, and indefinite in their terms, and rather replete with conditions, stipulations and exceptions. Gradually these were eliminated and really protective insurance the result. When that came about, then the use of insurance became popular.

"The title insurance companies have always anticipated the advent of full coverage in title insurance but certain things prolonged its coming. For various reasons the policy in general circulation did not protect against the following elements: Marketability, mechanics liens not of record; rights of parties in possession and not disclosed of record and such facts as generally might be disclosed by a physical examination of the premises; areas, dimensions and locations of improvements and other such matters that might be disclosed by a survey....

"But despite all these things this rambling of a uniform policy kept appearing. The Pennsylvania Title Association prepared and adopted a uniform policy as one of its first achievements, and the New Jersey Association soon followed. These were put into use in their respective states to some extent.

"The New York Board of Title Underwriters adopted a standard form or rather standard forms for all classes of title insurance which are used universally in New York City and have been used by others as a basis for their forms.

"In Northern California groups of companies in various communities began adopting uniform forms and it soon spread to that entire territory until standard forms are now used entirely by all the companies in Northern California.

"Three years ago it became apparent that the title companies should adopt some form and the association again appointed a committee to consider the matter, but again it was impossible to achieve it and the committee was discharged after giving it much consideration.

"About this time something else entered the picture – the actual lenders of the money upon real estate mortgages began to consider certain things. The real estate mortgage business was experiencing some changes and having new conditions to consider. Some few years ago one of the largest life insurance companies in the East and a lender of millions of dollars annually on real estate mortgages began requiring title insurance for all its loans in order to be relieved of the work and responsibility of examining and handling title matters in connection therewith. Others began to use title insurance for the same reason. This was not confined to certain of the life insurance companies alone, but was taken up by various mortgage companies. One of the big talking points for title insurance is that it relieves the investor from title work, examinations and worry therefrom, as well as affording protection.

"But as the use of title insurance increased, the fact soon became apparent to these loaning agencies that there were just as many kinds, sizes, shapes, forms and varieties of title insurance as there were companies and even more, because some title insurance companies were issuing a variety of forms drawn for the specifications and fancies of each loan correspondent. This occasioned that these investors carefully examine and scrutinize all these various title insurance policies to see just what they contained – to examine them the same as they had formerly examined abstracts.

"Coupled with this situation was the trend and desire toward uniformity as a means for facilitating and expediting business.

About this time another thing came and that was mentioned above – the new elements to be considered in the conduct of a real estate mortgage business. Among them were speculative building, construction loans, increase in business and territory loaned in necessitating more dependence upon the local agent, the general development of the real estate market, home building and loaning, and all the things concurrent with it.

"Not only was a uniform policy wanted, but full coverage became necessary.

"This was realized again; it was brought before the title people and with it became known the fact that certain of the life insurance companies had undertaken the drafting of a form that would meet their requirements. It was not long until this policy made its appearance by not only being presented to the title companies, but by being requested that when title insurance was furnished to these life insurance companies, it would have to be on this form. The form was furnished to the title companies by the insurance companies or they could print their own. It became known as the “L.I.C.” Form, or “Life Insurance Companies Standard Loan Policy of Title Insurance.” Those companies drafting it were: The Metropolitan Life Insurance Co., New York Life Insurance Company, Prudential Insurance Co. of America, Equitable Life Assurances Society of
the United States, and the John Hancock Mutual Life Insurance Co.

“Soon others adopted it, not only life insurance companies but real estate mortgage companies, until within a short time its use became of some volume.

“When presented to them in this manner, the title insurance companies found themselves acquiescing in writing a policy incorporating features that they had not up until that time been able to convince themselves and agree that they could write; and issue insurance of that kind. It brought problems and matters of consideration to a head that had not been decided for years and can really be said to have been a matter of some moment and impetus in the development of title insurance.

“But as is only natural, it was not entirely satisfactory to the title companies. There were some questions and objections to the policy, both as to its language and form but particularly in that it was not an inception and achievement of the title people themselves. It had not only been written for them, but worse yet, it had another’s name!” “The American Title Association Standard Loan Policy of Title Insurance A Uniform Mortgages Form is Presented – Embodies Full Coverage Provisions,” ATA “Title News” 1929.

The 1929 ATA Standard Loan Policy included coverage against lack of title, defects, liens or encumbrances on title, invalidity or lack of priority of the mortgage, lack of vesting of the mortgage by any described assignment, and any defect in execution of the mortgage. It also adopted the precedent of expanding coverage by incorporating insurance against unmarketability of title and against lack of priority over mechanic’s liens.

In 1959 the ALTA first adopted an owner’s policy.

The ALTA has subsequently adopted and revised a number of uniform title insurance policies for standard use in commercial and residential transactions:

- The ALTA Owner’s Policy – Standard Form A-1962. This policy included insurance against a lack of right of access, but did not insure against unmarketability of the title, and also excluded refusal of any person to purchase lease or lend money. The policy included a coinsurance provision.
- The ALTA Owner’s Policy – Standard Form B – 1962. This policy also insured against unmarketability of the title.
- The ALTA Standard Loan Policy Revised Coverage – 1962. This policy included insurance against unmarketability of the title, lack of right of access and “any statutory lien for labor or material which has now gained or hereafter may gain priority over the lien of said mortgage upon said estate.” The policy excluded coverage of mechanic’s liens arising from construction on the land contracted for and commenced after Date of Policy and not financed in whole or in part by mortgage proceeds which the insured had advanced or was presently obligated to advance.
- The ALTA Loan Policy, Additional Coverage – 1962. This policy also insured against assessments for street improvements under construction or completed at the Date of Policy which have “now gained on hereafter may gain” priority over the mortgage. This coverage is now offered by ALTA Endorsement No. 1, it is a standard provision in the CLTA filing of the ALTA Loan Policy, and it has once again been adopted in the new 2006 Loan Policy.
- The 1970 Owner’s Policy (Form A). This policy did not insure against unmarketability of title, and is no longer issued.
- The 1970 Owner’s Policy (Form B). This policy insures against unmarketability of title. It is available in some jurisdictions, but is not widely issued.
- The 1970 Loan Policy. This policy is still available in some jurisdictions, and is requested quite often in commercial transactions.
- The 1970 Policies revised 1984. The 1970 Policies were revised in 1984 to modify the governmental regulation exclusion, by providing that the exclusion did not apply if a notice of defect, lien or encumbrance was recorded in the local real property records. This change was made in the 1970 policies in order to clarify, consistent with the common understanding of the 1970 Policies, that the title insurance policies did not provide environmental coverage, but also added a new exception apparently limiting the policy power exclusion to the extent a notice was recorded in the local land records.
- The 1987 ALTA Owner’s and Loan Policies. These Policies substantially rewrote the 1970 Policies to clarify insurance coverage, Exclusions from Coverage, and defense provisions in the Conditions and Stipulations. The 1987 Policies (based on new forms in 1986 with revisions) were adopted to clarify the Policies, but were widely viewed as clarifying provisions in a manner
favorable to the title insurer. Consequently, many viewed these clarifications with ambivalence, primarily because of the clarifications made to the defense provisions and Exclusions. The 1987 Policies were amended in 1990 to add a creditors’ rights exclusion. The 1990 ALTA Loan Policy creditors’ rights exclusion excluded liability because of:

“7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws.”

The 1990 ALTA Policies were amended in 1992 to include creditors’ rights exclusions. The last versions of the basic ALTA Policies were the ALTA Owner's Policy (10-17-92) and ALTA Loan Policy (10-17-92). These forms replaced the "1990" ALTA policies and narrowed the creditors' rights exclusion by substitution of the "New York" creditors' rights language. In contrast, the earlier "1987" policies contained no express creditor's rights exclusion. Effective October 3, 1991, the "pre 1990 policies" (e.g., 1970 policies and 1970 revised 1984 policies) were no longer official ALTA forms (except for the Residential Owner's Policy), although they (primarily the 1970 Policies) remain widely available upon request. The 1992 policies, which are available throughout the United States, are issued in modified form in some states, by endorsement or change to the text. For example, the arbitration clause must be modified in the text or endorsement in states such as Alabama, Arkansas, Florida, Kansas, Kentucky, Louisiana, Missouri, New Jersey, New Mexico, South Dakota, Texas, Vermont, and West Virginia. In Florida the co-insurance clause in the Owner's Policy is deleted, in Vermont payment of loss must be made within 10 working days, and in Texas a number of changes are made (e.g., modified mechanic's lien insuring provision; insurance of good and indefeasible title instead of marketable title; definition of access; slightly modified claims, creditor's rights, and arbitration provisions). The 1970 policies remain available in many jurisdictions, but are not filed or promulgated, and thus are not available (except by deviation filing, if applicable, such as in Rating Bureau states), in Colorado, Delaware, Idaho, Michigan, Montana, New Jersey, New Mexico (promulgated form), New York, North Dakota, Ohio, Pennsylvania, South Dakota, Texas (promulgated form), Utah, and Wyoming. Currently the basic title insurance policies are the 1992 Owner’s and Loan Policies, and, in some commercial transactions, the 1970 ALTA Owner’s and Loan Policies.

The 2006 Owner’s Policy and Loan Policy. The new ALTA Owner’s Policy (6/17/06) and ALTA Loan Policy (6/17/06) extensively revise and improve existing coverage. The purpose of these changes was to expand coverage for residential and commercial transactions and to eliminate provisions that had been criticized by customer groups.

The conceptual basis and motivation for the 2006 policy is substantially different from that of the 1992 and 1970 Policies: it will provide an acceptable, and more favorable, product that the customer can view as one of four pillars for title insurance coverage in both residential and commercial transactions: (1) the 2006 ALTA Policy, which is the best standard title insurance policy available for all transactions other than residential property (where the Homeowner’s Policy or Expanded Coverage Residential Loan Policy may be secured); (2) endorsements to augment coverage, (3) extended coverage (removal of standard exceptions), and (4) closing protection letters (for buyers, lenders, and sellers where available). Each of these four title insurance coverages can be essential to the attorney in providing the maximum title insurance for her client, although other forms will remain relevant in segments of the real estate lending business: the ALTA Expanded Coverage Residential Loan Policy and the Homeowner’s Policy will remain available in residential transactions, a modified Short Form Loan Policy will be available for residential loan transactions, and a Junior Loan Policy can be secured on junior loan transactions.

It is evident from a comparison of the 2006 Policies and the 1992 Policies that the 2006 Policies are superior in coverage afforded the insured. A similar analysis of the 1970 Policies and the 2006 Policies will produce the same result; with the appropriate request of endorsements, the 2006 Policies will provide the insured with superior coverage.

Commercial customers have desired the 1970 Policies, where available, because they lack provisions such as a co-insurance clause, they have slightly more obscure defense obligations (than the 1992 Policies), they do not contain pro tanto reduction (payment of principal reduces insurance) clauses, and they do not include an explicit creditors’ rights exclusion. In part, the use of the 1970 Policies has been a triumph of hope over clarity, because it was by no means more clear, for example, that a “clean policy” would provide creditors’ rights coverage, than would a “clean
policy” provide carte blanche coverage for mechanic’s liens on a Loan Policy: the insuring provisions of the policy could be interpreted as not providing coverage, or an exclusion (such as acts of the insured, knowledge of the insured) could be asserted as a defense. The approach of requesting the 1970 Policy should no longer be taken by counsel, and may teeter on the edge of malpractice, given the broader array of coverage in the 2006 Policies, and the available menu of endorsements to improve on that basic coverage. See below Charts 1 and 2 for comparisons of the 2006, 1992, and 1970 Policies.

II. FORMAT OF NEW 2006 BASIC POLICY FORMS

The 2006 Policies have been designed to be more logically organized and precise in wording. While these changes are not necessarily substantive, they should aid in understanding and interpreting the 2006 Policies. Those changes include:

- The 2006 Policies contain defined terms. While the prior policies included definitions, some key phrases were not defined, or were used inconsistently. This was particularly true of phrases such as “amount of insurance” and “indebtedness.” The 2006 Policies contains the following defined terms that will also be used in applicable endorsements: Amount of Insurance, Date of Policy, Entity, Indebtedness, Insured, Insured Claimant, Insured Mortgage, Knowledge, Land, Mortgage, Public Records, Title, and Unmarketable Title. Schedule A of the 2006 Owner’s and Loan Policies contains the phrase “Address Reference” and Schedule A of the 2006 Loan Policy contains the phrase “Loan No.”

- The 2006 Policies reorganize the insurance and Exclusions. The Exclusions no longer have what were considered to be insuring or carve out provisions that could be construed as providing insurance. Those carve outs appear in insuring provisions that are now formally called “Covered Risks.” The 1970 Loan Policy was perhaps even less coherent: it contained a major inconsistency in including exclusionary language (relating to usury and truth in lending) in the insuring provisions.

- The 2006 Policies change the formal characterization of the insurance section. The designation of insurance as “Covered Risks” is consistent with the language of the Homeowner’s Policy and the Expanded Coverage Residential Loan Policy.

- The 2006 Loan Policy incorporates, by selection, endorsements in optional paragraph 6 of Schedule A. These endorsements do not have to be attached to the policy; the endorsements are incorporated by checking the box next to the endorsement reference. The Loan Policy authorizes incorporation of ALTA Endorsements 4-06 (Condominium), 4.1-06 (Condominium), 5-06 (Planned Unit Development), 5.1-06 (Planned Unit Development), 6-06 (Variable Rate), 6.2-06 (Variable Rate – Negative Amortization), 8.1-06 (Environmental Protection Lien), 9-06 (Restrictions, Encroachments, Minerals), 13.1-06 (Leasehold Loan), 14-06 (Future Advance – Priority), 14.1-06 (Future Advance – Knowledge), 14.3-06 (Future Advance – Reverse Mortgage), and 22-06 (Location). The Insured may continue to request other endorsements, such as ALTA Endorsements, proprietary endorsements, or special regional endorsements available in a particular state.

- The 2006 Policies reorganize the Conditions (which are now called Conditions, instead of the wordy “Conditions and Stipulations”). The Conditions now place the particular paragraphs in order consistent with the timing of events. For example, the Proof of Loss provisions now appear after Notice of Claim and before Defense, Duty to Cooperate and Options to Pay.

- Revisions are made to the 2006 Policies to increase consistency of the Owner’s and Loan Policies: most provisions are the same in the Owner’s and Loan Policies and there are fewer provisions that apply only to one policy. In most cases, the differences consist of additions to the Loan Policy in order to insure a mortgage.

III. LAUNDRY LISTS OF COVERED RISKS

In a change that is reminiscent of the style of the Homeowner’s Policy and the Expanded Coverage Loan Policy, the 2006 Policies include illustrative laundry lists of Covered Risks. Those lists are not exhaustive, however, and do not prevent other matters that fall within the general category of the Covered Risk from being covered.

Covered Risk 2(a) of the 2006 Owner’s Policy and the 2006 Loan Policy insures against:
"2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
   (a) A defect in the Title caused by
      (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
      (ii) failure of any person or Entity to have authorized a transfer or conveyance;
      (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
      (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
      (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
      (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
      (vii) a defective judicial or administrative proceeding.”

The Covered Risk states that it “includes but is not limited to….” Because of this language, the list of covered matters is a non-exclusive list of matters that are defects in title, and does not preclude other defects from being insured against by the Covered Risk. This Covered Risk should render an Execution Endorsement and an Electronic Transactions Endorsement unnecessary.

The 2006 Loan Policy also includes a similar laundry list relating to invalidity or unenforceability of the lien of the Insured Mortgage. Covered Risk 9 of the 2006 Loan Policy insures against loss because of:

   "9. The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title. This Covered Risk includes but is not limited to insurance against loss from any of the following impairing the lien of the Insured Mortgage
      (a) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
      (b) failure of any person or Entity to have authorized a transfer or conveyance;
      (c) the Insured Mortgage not being properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
      (d) failure to perform those acts necessary to create a document by electronic means authorized by law;
      (e) a document executed under a falsified, expired, or otherwise invalid power of attorney;
      (f) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
      (g) a defective judicial or administrative proceeding.”

Because the preamble of this Covered Risk states that it “includes but is not limited to insurance against loss from any of the following…”; this laundry list also is non-exclusive.

IV. NEW COVERAGE

The 2006 Policies contain additional insurance that either did not appear in the prior (1992 and 1970) policies, or was only indirectly addressed in those forms. The additional coverage appearing in the Covered Risks includes:

A. Coverage for Electronic Transactions. New provisions relating to Electronic Transactions are:

   • Covered Risk 2(a)(iv) in the 2006 Owner’s and Loan Policy, which insures against “failure to perform those acts necessary to create a document by electronic means authorized by law.” Subject to the remaining terms of the Policy, this Covered Risk will protect the Insured against a defect in Title because a document, such as the deed or other instrument in the chain of title or in the current transaction, was not properly created by electronic means.

   • Covered Risk 2(a)(vi) in the 2006 Owner’s and Loan Policy, which insures against loss because of “a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law.” A number of states now authorize electronic filing (scanned or electronically generated) of real property records. Most filings are currently scanned and electronically filed where allowed. The laws allowing electronic filings usually consist of Uniform Electronic Transactions Act (UETA) (which, according to the National Conference of
Commissioners on Uniform State Laws, or NCCUSL, has been adopted in some form in 46 states, D.C., and the U.S. Virgin Islands), and applicable optional provisions, or the more recently drafted Uniform Real Property Electronic Recording Act (URPERA) (which, according to NCCUSL, has been adopted in seven states and D.C.). This Covered Risk clearly addresses the failure of the electronic filing, recording, and indexing to provide constructive notice, either because non-compliance with the electronic filing requirements, such as those in applicable statutes or regulations, or because state law does not allow electronic filing. For the first time, the 2006 Policies also squarely insure against failure to properly file by any means, record or index an instrument in the Public Records. States vary in their requirements for instruments to be constructive notice: some may consider the instrument to be constructive notice from the time filed if the instrument is properly prepared and is in the chain of title; some consider the instrument to be constructive notice from the time recorded; and others consider the instrument to be constructive notice from the time the instrument is properly indexed. Recordation and indexing also may result in retroactive constructive notice from the time filed.

- Covered Risk 9(d) in the 2006 Loan Policy, which insures against loss because of invalidity or unenforceability of the lien of the Insured Mortgage as a result of “failure to perform those acts necessary to create a document by electronic means authorized by law.” In this context “document” is not by definition limited to the insured mortgage itself. The MISMO® eMortgage Closing Guide states the following: “The American Land Title Association recognizes the legal and technological advances that support the creation of enforceable electronic mortgage transactions. With this recognition, the Association is anticipating the approval of a new loan policy form by July 1, 2006 that explicitly includes insurance against the invalidity or unenforceability of the lien of the insured mortgage because of ‘failure to perform those acts necessary to create a document by electronic means authorized by law.’ It is widely agreed that this coverage will insure against invalidity of the insured mortgage because of failure of the promissory note or mortgage to be created in accordance with applicable electronic transactions laws. Notwithstanding publication of the new loan policy form, the 1992 ALTA Loan Policy provides the same insurance by insuring provision 5, which insures against ‘The invalidity or unenforceability of the lien of the insured mortgage upon the title.’” This Covered Risk is similar to Covered Risk 2(a)(iv).

- Covered Risk 9(f) in the 2006 Loan Policy, which insures against loss because of “a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law.” This Covered Risk is similar to Covered Risk 2(a)(vi).

- Condition 1(d) in the 2006 Loan Policy, which defines “Indebtedness” to mean “The obligation secured by the Insured Mortgage including one evidenced by electronic means authorized by law….” This definition is important in calculation of the Amount of Insurance and extent of liability. By using the phrase “authorized by law,” this definition does not reduce or eliminate coverage otherwise provided under Covered Risks 2(a)(iv) and 9(d) of the 2006 Loan Policy.

- Condition 1(e)(i)(B) in the 2006 Loan Policy, which defines “Insured” to include “the person or Entity who has ‘control’ of the ‘transferable record,’ if the Indebtedness is evidenced by a ‘transferable record,’ as these terms are defined by applicable electronic transactions law.” The 2006 Policy recognizes the person who has control of a transferable record (as defined by the Electronic Signatures in Global and National Commerce Act, or E-Sign, and UETA) as an insured. The UETA Commentary provides that “Under Section 16 [of UETA] acquisition of ‘control’ over an electronic record serves as a substitute for ‘possession’ in the paper analog. More precisely, ‘control’ under Section 16 serves as the substitute for ‘possession’ in the paper analog. More precisely, ‘control’ under Section 16 serves as the substitute for delivery, endorsement and possession of a negotiable promissory note or negotiable document of title. Section 16(b) allows control to be found so long as ‘a system employed for evidencing the transfer of interests in the transferable record reliably establishes [the person claiming control] as the person to which the transferable record was issued or transferred.’ The key point is that a system,
whether involving third party registry or technological safeguards, must be shown to reliably establish the identity of the person entitled to payment. Generally, the transferable record must be unique, identifiable, and except as specifically permitted, unalterable. That ‘authoritative copy’ must (i) identify the person claiming control as the person to whom the record was issued or most recently transferred, (ii) be maintained by the person claiming control or its designee, and (iii) be unalterable except with the permission of the person claiming control. In addition any copy of the authoritative copy must be readily identifiable as a copy and all revisions must be readily identifiable as authorized or unauthorized. The control requirements may be satisfied through the use of a trusted third party registry system.... The lender implements a newly developed technological system which dates, encrypts, and stores all the electronic information in the transferable record in a manner which lender can demonstrate reliably establishes lender as the person to which the transferable record was issued. In the alternative, the lender may contract with a third party to act as a registry (e.g., MERS® eRegistry) for all such transferable records, retaining records establishing the party to whom the record was issued and all subsequent transfers of the record.” Title insurers are expected to rely upon the MERS® eRegistry, where applicable, for identification of the person who “controls” a transferable record.

- Condition 1(h) of the 2006 Owner’s Policy and Condition 1(j) of the 2006 Loan Policy, which defines “Mortgage” as “Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.”
- Condition 6(b) of the 2006 Owner’s and Loan Policies, which authorizes the Company to require relevant e-mails, disks, tapes, and videos reasonably pertaining to the claim.

B. Survey Coverage

New Covered Risk 2(c) of the 2006 Owner's and Loan Policies for the first time in a policy provides explicit “survey” (or boundary and encroachment) coverage without issuance of a special endorsement. That Covered Risk insures against loss because of:

“All encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term ‘encroachment’ includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.”

This Covered Risk is similar to but more expansive than the affirmative insurance in paragraph 5 of Schedule B of the prior (2000) ALTA Short Form Loan Policy, which stated:

“This policy insures against loss or damage by reason of any violation, variation, encroachment or adverse circumstance affecting the title that would have been disclosed by an accurate survey. The term encroachment includes encroachments of existing improvements located on the land onto adjoining land, and encroachments onto the land of existing improvements located on adjoining land.”

The Short Form Loan Policy did not include the word “encumbrance” and did not identify the applicable “survey” as a “land” survey, which could suggest that the coverage would be limited to the matters disclosed by a more limited mortgagee inspection survey. Other policies did not include any explicit insurance unless an endorsement was attached, and left to litigation the meaning of the absence of a survey exception. While “land survey” is not defined by reference to any standards, such as an ALTA/ACSM Survey, the term should be construed as a land survey of the highest standards for a commercial, rural, or residential survey within the jurisdiction that accurately reflects boundaries, corners, improvements, easements, other encumbrances, discrepancies in boundary lines, and encroachments both into and over the property lines or above or below ground.

The term “survey” has been construed as meaning a boundary line survey that would reveal encroachments and boundary line disputes, not a mortgage loan survey that would show only the location of improvements. The term “other matters” shown on a survey was construed as referring to the size and dimensions of a lot. State Farm Ins. Cos. v. Pedar, No. 2001-L-161, 2003 Ohio 1092, 2003 Ohio App. LEXIS 1026 (Ohio Ct. App. March 7, 2003) (a mortgage loan survey was prepared and did not disclose encroachment or boundary dispute).

This coverage will not serve as a substitute for a Contiguity or Access Endorsement, and will not insure against shortages in area, absent a special endorsement.
A key new element of this coverage is the recognition that covered encroachments include encroachments of existing improvements on the Land onto adjoining land. This additional clarification is necessary to prevent further debate as to whether survey coverage results in a valid claim if an improvement encroaches onto adjoining land. That issue has arisen repeatedly because the definition of “land” in the all title insurance policies (including the 1970 and 1992 Policies) excluded any land beyond the boundaries described in Schedule A, and, therefore, arguably did not insure against encroachments onto adjoining land because such encroachments would not be the insured “land.” While cases generally rejected that contention, the issue will no longer exist if the 2006 Policy is issued because of the new definition of and insurance against any “encroachment.” The definition of “Land” remains the same, but that definition is subject to the provisions of the Covered Risk. However, just as the policies do not insure against other matters excepted in Schedule B, the 2006 Policies will not insure against survey matters if an exception appears in Schedule B. It is possible that a relatively narrow exception in Schedule B may not be parallel to the Covered Risk, and may result in some survey coverage because of matters insured against by the Covered Risk and not excepted from coverage by the particular exception. This Covered Risk does not reduce the need for endorsements such as the Access Endorsement (ALTA 17 series), Contiguity Endorsement (ALTA 19 series), Foundation Endorsement (e.g. CLTA Endorsement 102.5), Location Endorsement (ALTA 22 series), Restrictions, Encroachments, Minerals Endorsement (ALTA 9 series), and Survey Endorsement (e.g. CLTA Endorsement 116.1).

C. Tax Coverage

New Covered Risk 2(b) of the 2006 Owner’s and Loan Policies insures against loss because of

“The lien of real estate taxes or assessments imposed on the Title by a governmental authority due and payable, but unpaid.”

If an exception is made to taxes for specific periods in Schedule B, the Insured may wish to secure separate affirmative insurance that such taxes are not yet due and payable, since this Covered Risk is subject to the exceptions in Schedule B and does not clearly purport to apply if an exception to taxes is made. Compare this Covered Risk with Covered Risk 18 of the Expanded Coverage Residential Loan Policy, which expressly insures against the effect of a Schedule B exception by insuring against

“The inability to use the existing one-to-four family residential structure or residential condominium unit or any portion thereof or a future modification or replacement thereof for one-to-four family residential purposes because that use violates a restriction shown in Schedule B.”

For example, the Covered Risk of the 2006 Policy could have insured against “The lien of real estate taxes or assessments, if any, shown in Schedule B imposed on the Title by a governmental authority due and payable, but unpaid.”

This Covered Risk also does not render the Tax Parcel Endorsement (ALTA 18 series) unnecessary, and that endorsement should continue to be requested.

Covered Risk 11(b) of the 2006 Loan Policy insures against lack of priority of the lien of the Insured Mortgage

“over the lien of any assessments for street improvements under construction or completed at Date of Policy.”

This Covered Risk is equivalent to ALTA Endorsement 1, rendering that Endorsement unnecessary if the 2006 Loan Policy is issued.

Exclusion 5 of the 2006 Owner’s Policy excludes liability because of

“5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.”

Similarly, Exclusion 7 of the 2006 Loan Policy excludes liability because of

“7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).”

Each of these Exclusions is necessary only because of the new Gap Coverage provided in the Policies. The Exclusions are similar to the provisions of the New York Standard Endorsement, which provides Gap Coverage and also excepts to subsequent taxes by the following language:

“{(d) If the recording date of the instruments creating the insured interest is later than the policy date, such policy shall also cover intervening liens or encumbrances, except real estate taxes, assessments, water charges and sewer rents.”
The 2006 Loan Policy states that the Exclusion does not limit the insurance of Covered Risk 11(b), which insures against the lien of any assessment for street improvements under construction or completed at Date of Policy. The effect of the Gap Coverage of Covered Risk 14 of the 2006 Loan Policy generally should be to extend the insurance as to a lien created, attached, filed or recorded in the Public Records in that gap period. The Gap Coverage does not insure against a lien that attached after recording if the lien is for assessments for the construction or completion of street improvements commenced in the Gap, because the Covered Risk does not purport to change the timing for the construction or completion of street improvements; the Covered Risk 11(b) of the 2006 Loan Policy requires that the construction be commenced or completed by Date of Policy. However, because the Gap Coverage does include liens that attach in the gap, the lien for street improvements could be covered if the lien attaches in the gap period.

D. Gap Coverage

The 2006 Owner’s and Loan Policies provide Gap Coverage. These Covered Risks insure against:

(2006 Owner’s Policy): “10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.”

(2006 Loan Policy): “14. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 13 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the Insured Mortgage in the Public Records.

Because of these Covered Risks, each Policy contains an Exclusion for post-policy tax and assessment liens (Exclusion 5 of the 2006 Owner’s Policy and Exclusion 7 of the 2006 Loan Policy. The Exclusions are similar to the provisions of the New York Standard Endorsement.

These Covered Risks render a Gap Endorsement unnecessary, if the 2006 Policy is issued.

E. Covered Risks Relating to Excluded Matters

There has been an evolution in coverage for matters relating to Exclusions 1 (Police Powers and Governmental Regulation) and 2 (Eminent Domain). There was no explicit coverage as to police powers in the 1970 Policy, there was possible coverage for police powers in the 1992 Policy if a specified notice was recorded in public records and if the policy was construed to provide coverage because of the Exclusion, and there is clear coverage in the 2006 Policy for certain police power notices recorded in the Public Records. In the 1970 Policy, eminent domain actions were not covered unless appearing in the public records, in the 1992 Policy, eminent domain actions have not been covered unless appearing in the public records or unless binding on a purchaser, and in the 2006 Policy that coverage is carried forward by the more certain avenue of explicit coverage in the Covered Risks.

From the perspective of the insured, the inherent weakness of the 1992 Policy is that the purported coverage as to certain notices of enforcement, defects, liens or encumbrances relating to police power violations recorded in the public records was afforded, if at all, in the Exclusions, and was not explicitly provided in the insuring provisions. This coverage, to the extent it was given, was still more favorable to the insured than the 1970 Policy, which did not attempt to provide any coverage at all. The coverage, if any, was similar to the 1970 Policy revised 1984, which limited the Police Power Exclusion if certain matters were recorded in the local real property records.

It is at doubtful that any claim of coverage can derive from the Exclusions. For example, it was stated that in one recent case that

“Elysian cannot rely upon an exclusion to coverage to extend coverage. (Ray v. Valley Forge Ins. Co. (1999) 77 Cal. App. 4th 1039, 1048 [92 Cal. Rptr. 2d 473] [‘Insurance policy exclusions do not create coverage’]; Stanford Ranch, Inc. v. Maryland CASSs. Co. (1996) 89 F.3d 618, 626-627 [‘It is well established in California that an exclusion cannot act as an additional grant or extension of coverage’].) Elysian points to a provision that excludes from coverage any “loss or damage, costs, attorneys’ fees or expenses which arise by reason of: [& para;] (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; ... or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.” (Italics added.) Unlike an assessment lien, for example, the Notice of substandard dwelling did not affect title. It therefore did not give rise to coverage under the basic insuring provisions of the policy, and the exclusion does not expand that coverage to include the Notice. Even if the exclusion could be understood as granting coverage based upon the reasonable expectation of the insured (see White, supra, 40 Cal. 3d at p. 881), the Notice of substandard dwelling arguably does not fall within the
exception to the exclusion. As discussed above, the Notice was not a notice of enforcement under municipal procedures. The Notice was instead a warning, preliminary to any formal enforcement action."


This result alone is sufficient to render the 1970 Policy and the 1992 Policy unacceptable if an alternative product is available. The solution has been to place coverage in the following Covered Risks of the 2006 Owner’s and Loan Policies:

5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
   (a) the occupancy, use, or enjoyment of the Land;
   (b) the character, dimensions, or location of any improvement erected on the Land;
   (c) the subdivision of land; or
   (d) environmental protection

   if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.

6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.

7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.

8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.

The requirement that a notice be recorded in the Public Records applies to Covered Risks 5, 6, and 7, but not to Covered Risk 8. This difference is consistent with the 1992 Policy Exclusion 2, which provides that the exclusion will not apply to takings, such as U.S. condemnation proceedings, that are binding on innocent purchasers, even if no notice is recorded in the local real property records. The 1970 Policy, however, does not suggest any protection to a bona fide purchaser unless the notice of exercise appears in the public records. The Covered Risk (5-7) of the 2006 Policy does not require that the notice be prepared and filed by a governmental authority, but does require that the notice describe at least a part of the Land and set forth the violation, enforcement, or notice of intent to enforce under Covered Risk 5 or 6, or notice of exercise of eminent domain under Covered Risk 7. Given the breadth of “intention to enforce” in Covered Risk 5, it is advisable to except in Schedule B to any governmental ordinance or notice recorded in the Public Records, if it describes all or part of the Land, in order to avoid interpretation of the document, but the Covered Risk does not insure against an ordinance, regulation or other notice unless there is a disclosure of intent to enforce or enforcement, or disclosure of violation, as applicable.

These Covered Risks do not reduce the need to secure Zoning Endorsements, Subdivision Map Act Endorsements, and Environmental Protection Lien Endorsements (on residential loans, commercial loans, and commercial owner’s transactions).

V. OTHER EXPANSIONS OF COVERAGE

A. Creditors’ Rights

The 2006 Policies have clarified coverage as to creditors’ rights by adding new Covered Risks for matters that formerly were addressed directly by the Creditors’ Rights Exclusion in the 1992 Policies, and, perhaps in some cases, indirectly by the insurance against defects in title.

Covered Risk 9 of the 2006 Owner’s Policy insures against loss because of:

9. Title being vested other than as stated in Schedule A or being defective
   (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors’ rights laws; or
   (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential
transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records

(i) to be timely, or

(ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor."

Covered Risk 13 of the 2006 Loan Policy insures against loss because of:

“13. The invalidity, unenforceability, lack of priority, or avoidance of the lien of the Insured Mortgage upon the Title

(a) resulting from the avoidance in whole or in part, or from a court order providing an alternative remedy, of any transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction creating the lien of the Insured Mortgage because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or

(b) because the Insured Mortgage constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records

(i) to be timely, or

(ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor."

Neither the Covered Risk provisions nor the 2006 Policy Creditors’ Rights Exclusions (Exclusion 6 of the 2006 Loan Policy and Exclusion 4 of the 2006 Owner’s Policy) refer to equitable subordination, unlike the 1992 Loan Policy Exclusion. That reference was unnecessary because equitable subordination is an act of the insured and generally should be a post-policy matter, both of which are excluded.

The new Covered Risks refer to “a court order providing an alternative remedy.” This language originates in Subsection 550(a) of the Bankruptcy Code, which states that “to the extent that a transfer is avoided under Section 544,…547, 548…the trustee may recover for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property.…” The language of the Covered Risk is a significant improvement of coverage over the 1992 Policy, but is possibly less significant than it could be because it remains conditioned upon title being defective or the avoidance (or lack of priority) of the lien of the Insured Mortgage, and is not a separate, independent basis for title insurance coverage. As stated in the Legislative History to Section 550 of the Bankruptcy Code, “Section 550 prescribes the liability of a transferee of an avoided transfer, and enunciates the separation between the concepts of avoiding a transfer and recovering from the transferee.” Still, the Covered Risk would cover the possibility of recharacterization or subordination because of the creditors' rights issues, unless otherwise excluded. These Covered Risks might have more clearly covered alternative court orders by language in the preamble of the Covered Risks (and necessary clarification of the remainder of these Covered Risks) such as:

(Owner’s Policy) “9. Title being vested other than as stated in Schedule A or being defective or a court order providing an alternative remedy…”

(Loan Policy) “13. The invalidity, unenforceability, lack of priority, or avoidance of the lien of the Insured Mortgage upon the Title or a court order providing an alternative remedy…”

Even absent such clarification, the 2006 Policies are significantly superior to the 1970 and 1992 Policies on this issue: the 1970 and 1992 Policies do not have separate insuring provision on creditors’ rights and do not attempt to address the court ordered alternative remedy.

A preference resulting from delayed recording is covered by the Covered Risks, but the risk of such claim because of delayed recording has been diminished under Section 547 of the Bankruptcy Code. Section 547 was amended in 2005 to provide that “a transfer is made…. at the time such transfer takes effect between the transferor and the transferee, if such transfer is perfected at, or within 30 days after, such time…. This modification expanded the allowable delay in time for perfection to 30 days before a current transfer can be considered a preference. Formerly, a transfer was required to be perfected within 10 days if not a purchase money transaction, or 20 days if a purchase money transaction.

These Covered Risks address, and assume, the argument that a Creditors’ Rights matter is a post-policy matter, because the post-policy exclusion (Exclusion 3(d)) provides that it does not apply to these Covered Risks. Absent that language (and such language is absent from the 1992 Policy and the 1970 Policy) or an endorsement, the possibility that a post-policy defense applies is obvious and it becomes even more apparent that the 1970 and 1992 Policies are inadequate in contrast to the 2006 Policies. Those policies have no explicit insuring provision and they have unmodified exclusions.
Customers will still conclude that they need to request the ALTA Endorsement 21, and may also request deletion of the Creditors’ Rights Exclusion, when securing the 2006 Policy. It appears to be ill-advised and possibly malpractice to order the 1970 Policy in lieu of this approach, given the doubts that continue to exist about whether that Policy would provide Creditors’ Rights coverage, given other less favorable provisions in the 1970 Policy, and given the newly available alternative of the 2006 Policy plus the ALTA Endorsement 21. Among the defenses that may be asserted by a title insurer are: (1) the bankruptcy and asserted claim is a post-policy matter; (2) the matter (if arising out of the current transaction) was created by the insured; (3) the matter was a matter known by the insured and not disclosed to the title insurer; (4) the matter is not insured against if arising out of the current transaction because resulting in no loss; (5) the matter results from failure of the insured to pay value, particularly if arising out of the current transaction; (6) the matter (if a Loan Policy is issued) relates to the Indebtedness and is not insured against by the policy. It is also inadequate to simply request deletion of a creditors’ rights exclusion, given the possible interpretation of an exclusion as not providing coverage absent an applicable insuring provision. The view is strengthened with respect to the 2006 Policy, since the existing Creditors’ Rights Covered Risk would still insure only against such issues arising out of prior transactions or out of recording issues, even if the Creditors’ Rights exclusion was deleted.

B. Unmarketable Title

The definition of Unmarketable Title in the 2006 Policy is expanded, and, as a consequence, marketability coverage may be expanded. The definition of Unmarketable Title in the 2006 Policies is:

“Unmarketable Title”: Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title or a prospective purchaser of the Insured Mortgage to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.”

This definition expands the range of unmarketability to include a matter that allows a prospective lessee or lender to be released from the obligation to lease or lend. By saying “if there is a contractual condition…” this Policy could also be construed as making (or continuing to make) Marketable Title coverage contingent upon the existence of an actual contractual condition. That construction should be of little relevance and would not reduce coverage, because of the separate Covered Risks insuring Title and insuring against defects in Title. This Unmarketable Title coverage does not diminish the need for endorsements such as the ALTA Endorsement 9 series (particularly regarding breach of covenants), Future Insurance (Sears) Endorsements (agreeing to reissue and creating an insurability standard), and Loss (Measure of Damage, Going Concern, Leasehold) Endorsements.

C. Mechanic’s Liens

Covered Risk 11(a) in the 2006 Loan Policy has been slightly clarified to cover claims arising from improvement or work “contracted for, commenced, or continued after Date of Policy.” By adding “continued,” the 2006 Loan Policy clarifies that the insurance will extend to post-policy work begun or contracted for prior to Date of Policy, and apparently that advances for such post-policy work will be included in the Indebtedness only if obligatory. The former Exclusion 6 to mechanic’s liens in the 1992 Loan Policy, which was parallel to the insuring provision of that Policy, no longer appears in the 2006 Loan Policy:

“6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.”

This former exclusion, which appeared in the 1992 Loan Policy, but not in the 1970 Loan Policy, was viewed as unnecessary because of the limits of insurance provided in Covered Risk 11(a): the insurance does not apply to work contracted for and begun after Date of Policy and not financed by obligatory advances secured by the Insured Mortgage. The changes in the 2006 Policy do not affect the underwriting of mechanic’s liens, or the need for appropriate exceptions based upon the state law and particular facts. Thus, this Covered Risk does not change the requirements of a title insurer regarding issuance of a Mechanics’ Lien Endorsement, issuance of a Future Advance Endorsement (ALTA 14 series) with or without a mechanics’ lien exception, deletion of a mechanics’ lien exception, or insertion of a Pending Disbursement Clause.

D. Priority

The 2006 Loan Policy provides precise priority coverage by insuring in Covered Risk 10 against “lack of priority” of the lien of the Insured Mortgage” as opposed to “priority” of any lien or encumbrance (as appeared in
insuring provision 6 of the 1970 Loan Policy and in insuring provision 6 of the 1992 Loan Policy). The former insurance in the 1970 and 1992 Loan Policies against priority of another lien meant that equality of priority of an adverse lien or encumbrance was not insured against in either the 1970 Policy or the 1992 Policy. Oddly, this omission in the prior policies was never a source of criticism. This same clarification is made to the mechanic’s lien coverage in the 2006 Policy: the 1970 Loan Policy insured against mechanic’s liens that gain priority over the lien of the insured mortgage, and did not insure priority of the lien of the insured mortgage; in contrast, the 2006 Loan Policy and the 1992 Loan Policy insure priority of the lien of the Insured Mortgage over mechanic’s liens. This is an additional example of the imperfection of the 1970 Policy and why it should not be requested.

This insurance does not reduce the need to secure a Future Advance Endorsement (ALTA 14 series), because the policy does not insure validity or priority of later advances or accruing interest, except to the extent mechanic’s lien coverage is provided.

VI. EXCLUSIONS

The Exclusions for police power, eminent domain, and creditors’ rights have been clarified by the new Covered Risks. The mechanic’s lien exclusion was viewed as unnecessary and redundant of Covered Risk 11(a) and was deleted in its entirety in the 2006 Loan Policy.

Even so, some of the Exclusions were not affected in any manner by the changes in the new Policies. Exclusion 3 (acts of Insured, etc.) was not modified in any material way, except to the extent the post-policy exclusion was limited, nor were changes made to the doing business or usury or truth in lending exclusions. Consequently, the Insured must still consider the need for endorsements such as the Doing Business Endorsement, the Environmental Protection Lien Endorsement, the Subdivision Map Act Endorsement, the Usury Endorsement, and the Zoning Endorsement.

VII. SCHEDULES

The Schedules of the 2006 Policies are significantly different from the Schedules of the 1992 Policies.

Schedule A refers to the title insurer’s name, in order to provide the Insured with a ready identification of the insurer’s name in the event the policy jacket is lost.

Schedule A adds a reference to the property address, in order to more readily identify the Land. This statement does not insure the accuracy of the address; to do that the insured must secure an ALTA Endorsement 22 or 22.1.

Schedule A of the 2006 Loan Policy also identifies the Loan Number, in order to facilitate identification of the transaction by the lender. Lenders can more easily identify the file by Loan Number and address.

Schedule A of the 2006 Loan Policy provides an optional section to check off incorporated endorsements that do not require completion by the addition of significant information. This approach is like the approach taken by the Short Form Loan Policy and the Commercial Short Form Loan Policy (this form is not an ALTA form).

Schedule B of the 2006 Loan Policy contains an optional phrase to refer to Schedule B II (“Except as provided in Schedule B – Part II…”).

The ALTA has continued the Standard Exceptions as a separate document, which a title insurer may use in its sole discretion. The Standard Exceptions are not part of the ALTA Policy.

VIII. CONDITIONS

Numerous changes have been made to the Conditions, formerly known as the Conditions and Stipulations. Some of these changes make the 2006 Policies significantly advantageous to the Insured.

The 2006 Policy contains a new definition of Unmarketable Title. This definition is expanded to include a matter that would entitle a lessee or lender to refuse to lease or lend money on the title based on a contractual condition requiring delivery of marketable title.

The 2006 Owner’s Policy includes a broad definition of “Insured”:

" (d) “Insured”: The Insured named in Schedule A.

(i) The term “Insured” also includes

(A) successors to the Title of the Insured by operation of law as distinguished from purchase, including
heirs, devisees, survivors, personal representatives, or next of kin;

(B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(C) successors to an Insured by its conversion to another kind of Entity;

(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured,

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or

(4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes."

The definition of the Insured in the 2006 Loan Policy also is expanded. This definition renders a Fairway Endorsement less relevant or compelling, and addresses the issue of conveyances to inter vivos trusts, a matter also addressed by the Homeowner’s Policy. The definition of the Insured in the 2006 Loan Policy also is expanded. However, the Insured under an Owner’s Policy may still wish to secure a Fairway or similar endorsement, such as an Additional Insured, Permitted Tranferees or other successor endorsement. While the language is expanded, the definition of Insured does not include an affiliate if “actual valuable consideration” changes hands. This should mean consideration as normally defined, such as assumption of a loan, cash or other property, and not simply the increased value of the ownership in the grantee because of its acquisition of the asset. In any case, there may be consideration because of debt assumption, and that negates the benefits of this provision. The safe course for the insured remains a broader “Fairway” Endorsement or an Additional Insured Endorsement (e.g. CLTA 107.9) at the time of transfer. This definition also does not explicitly address the type of deed that may be used to transfer Title; absent any limitation, the insured can use any type of deed, including a quit claim deed, because this provision is not based on warranty liability.

There is a new definition of “Indebtedness” in the 2006 Loan Policy:

" (d) "Indebtedness": The obligation secured by the Insured Mortgage including one evidenced by electronic means authorized by law, and if that obligation is the payment of a debt, the Indebtedness is the sum of

(i) the amount of the principal disbursed as of Date of Policy;

(ii) the amount of the principal disbursed subsequent to Date of Policy;

(iii) the construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the Land or related to the Land that the Insured was and continued to be obligated to advance at Date of Policy and at the date of the advance;

(iv) interest on the loan;

(v) the prepayment premiums, exit fees, and other similar fees or penalties allowed by law;

(vi) the expenses of foreclosure and any other costs of enforcement;

(vii) the amounts advanced to assure compliance with laws or to protect the lien or the priority of the lien of the Insured Mortgage before the acquisition of the estate or interest in the Title;

(viii) the amounts to pay taxes and insurance; and

(ix) the reasonable amounts expended to prevent deterioration of improvements; but the Indebtedness is reduced by the total of all payments and by any amount forgiven by an Insured."

This sweeping definition results in consideration of these post-policy advances in calculation of the maximum amount of liability that a title insurer will have pursuant to Section 8 of the Conditions and in calculation of the Amount of Insurance. It does not reduce the need for an ALTA 14 series Endorsement to cover Future Advances; the Endorsement is still necessary, for example, to insure the validity and priority of the lien of the Insured Mortgage for the Future Advances. This definition does not insure that the post-policy Advances are actually secured by the Insured Mortgage, because the policy contains a post-policy exclusion and because the definition states that it means “obligations secured by the Insured Mortgage. . . .” Because of this definition and because the pro-tanto reduction in liability clause of the 1992 Loan Policy does not appear in the 2006 Loan Policy, there is no longer any need for a Last Dollar Endorsement. However, the policy continues to provide (at Subsection 1(d) (iii)) that post-policy construction advances are included in the calculation of Indebtedness only if they continue
to be obligatory. The requirement that construction advances be obligatory does not apply to other advances made post-policy (at Subsection 1(d)(ii)), so that other post-policy advances should be included in calculation of Indebtedness, whether obligatory or not.

The warrantor coverage is expanded in Condition 2, to include coverage for statutory warranties (of matters insured against).

The Proof of Loss Section (Section 4 of the Conditions of the 2006 Policy) is substantially rewritten. No longer is there any requirement to provide a Proof of Loss, unless the Proof of Loss is requested by the title insurer and unless the facts are known by the Insured.

The 2006 Policies contain a new provision that expands the Amount of Insurance in certain claims situations. Section 8(b) of the Conditions of the 2006 Policies states that:

“(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title or the lien of the Insured Mortgage, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.”

This clause has two imports: (1) it increases the Amount of Insurance if the Company pursues its rights and is “unsuccessful;” and (2) it allows the Insured to choose to have the amount of loss determined as of the date the claim was made or the date it is settled and paid. This clause may apply to more than one claim covered by the Policy. The clause also does not require that the pursuit of rights by the Company consist solely of litigation; the Company may instead make an unsuccessful attempt to secure a release or other settlement with a third party. In any such situation, the Amount of Insurance will be increased by 10%, even if the claim is for a lesser amount than 10% of the Amount of Insurance.

The subrogation provisions in subsection 13(a) the 2006 Owner’s Policy and Subsection 12(a) the 2006 Loan Policy are now essentially the same. If the Insured under a 2006 Owner’s or Loan Policy is not made whole, the rights of the Company will be postponed. The Owner’s Policy provides:

“13(a)...If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.”

The 1970 and 1992 Owner’s Policies made the Company’s subrogation rights equal to the remaining rights of recovery by the Insured. The Insurance Department of Washington determined that subrogation clauses providing for parity of subrogation of the title insurer and the insured were not acceptable because of state law. The objections of Washington should be resolved by this new policy.

Several provisions unfavorable to the Insured that appeared in the 1992 Policies (and in some cases in the 1970 Policies) do not appear in the 2006 Policies:

- There is no co-insurance clause in the 2006 Owner’s Policy. There was a co-insurance clause in the 1992 Owner’s Policy.
- There is no Apportionment Clause in the 2006 Owner’s Policy. There was an apportionment clause in the 1992 and 1970 Owner’s Policies.
- There is no non-cumulative liability clause in the 2006 Loan Policy. There was a non-cumulative liability clause in the 1992 and 1970 Loan Policies.
- There is no pro tanto reduction clause (by payment of principal) in the 2006 Loan Policy (and therefore no need for a Last Dollar Endorsement). There was a pro tanto reduction clause in the 1992 Loan Policy.
- There is no limit on coverage for basic post-policy Advances in the 2006 Loan Policy. The 1992 and 1970 Loan Policies did not include post-policy advances, other than obligatory construction advances, in calculation of the amount of liability. The Insured should still secure a Future Advance (ALTA 14 series) Endorsement if the Insured Mortgage secures post-policy Advances.

Other revisions include:

- Clarification of the Arbitration Clause. The arbitration provision has been modified to provide that a Policy for $2 million or less is subject to mandatory arbitration upon request and compliance
with applicable law, whereas the arbitration provision in the 1992 Policies provided that arbitration could be compelled if the policy was $1 million or less. The Rules for arbitration will be the ALTA Title Insurance Arbitration Rules (which incorporate the National Arbitration Forum rules except as modified) in effect at the time of the claim, unless the parties agree otherwise. Class actions may not be maintained in an arbitration proceeding. The Title Insurance Arbitration Rules are found at www.alta.org/standards/arbitration1.1.06.cfm.

- Addition of a Choice of Law and Forum Provision (Section 16 of Conditions of 2006 Loan Policy and Section 17 of Conditions of 2006 Owner’s Policy).
- Incorporation of an Endorsement Clause. Section 14(d) of the Conditions of the Loan Policy and Section 15(d) of the Conditions of the Owner’s Policy make any Endorsement subject to the terms of the Policy, except as it expressly provides otherwise.

IX. SHORT FORM LOAN POLICY REVISIONS

The new Short Form Residential Loan Policy One to Four Family (6/17/06) incorporates the ALTA Loan Policy (6/17/06). The new Short Form Residential Loan Policy automatically incorporates several endorsements, and certain endorsements may also be incorporated by marking a box on the Policy.

<table>
<thead>
<tr>
<th>Endorsements automatically incorporated by the new Short Form Residential Loan Policy, when applicable:</th>
<th>Endorsements incorporated by marking a box on the new Short Form Residential Loan Policy:</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALTA Endorsement 4.1-06 (Condominium).</td>
<td>ALTA Endorsement 4-06 (Condominium).</td>
</tr>
<tr>
<td>ALTA Endorsement 5.1-06 (Planned Unit Development).</td>
<td>ALTA Endorsement 5-06 (Planned Unit Development).</td>
</tr>
<tr>
<td>ALTA Endorsement 6-06 (Variable Rate).</td>
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<tr>
<td>ALTA Endorsement 6.2-06 (Variable Rate-Negative Amortization).</td>
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<tr>
<td>ALTA Endorsement 7-06 (Manufactured Housing).</td>
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<tr>
<td>ALTA Endorsement 8.1-06 (Environmental Protection Lien), with an option to refer to specific state statutes that could create environmental liens with priority over the Insured Mortgage.</td>
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</tr>
<tr>
<td>ALTA Endorsement 9-06 (Restrictions, Encroachments, Minerals).</td>
<td></td>
</tr>
<tr>
<td>ALTA Endorsement 14-06 (Future Advance—Priority). This Endorsement insures validity and priority of the lien of the Insured Mortgage as security for Future Advances, even if the insured knows of intervening matters at the time of a Future Advance.</td>
<td></td>
</tr>
<tr>
<td>ALTA Endorsement 14.1-06 (Future Advance—Knowledge). This Endorsement insures validity and priority of the lien of the Insured Mortgage as security for Future Advances, unless the Insured</td>
<td></td>
</tr>
</tbody>
</table>

by James Gosdin
4/9/2007 4:39 PM

The 2006 Policies
While ALTA Endorsements 4.1-06 (Condominium) and 5.1-06 (Planned Unit Development) do not insure priority of the lien of the Insured Mortgage over future assessments by property owner’s associations, ALTA Endorsement 9-06 (Restrictions, Encroachments, Minerals) does insure such priority. Optional ALTA Endorsements 4-06 (Condominium) and 5-06 (Planned Unit Development) also insure priority of the lien of the Insured Mortgage over future assessments by property owner’s associations.

Schedule A no longer states that the Date of Policy is the later of the stated Settlement Date or Date of Recording of the Insured Mortgage. Instead the Policy states simply the “Date of Policy,” which may be the date of disbursement, because the incorporated ALTA Loan Policy (6/17/06) includes a Gap Coverage Covered Risk as to matters arising before date of recording and after Date of Policy. One slight difference from the gap coverage that was included in the 2000 ALTA Short Form Loan Policy is that the new ALTA Short Form Loan Policy (6/17/06) also contains an Exclusion for post-policy tax liens between Date of Policy and date of recording, whereas the 2000 Short Form Loan Policy contained no similar Exclusion and thus insured against tax liens arising or attaching before date of recording.

Schedule B retains the exceptions and affirmative insurance for Covenants, Conditions, and Restrictions, Easements and Servitudes, and Minerals. The exceptions in the 2000 ALTA Short Form Loan Policy to taxes not yet due and payable and to survey matters were removed because they were viewed as no longer necessary; the new ALTA Loan Policy (6/17/06) contains Covered Risks insuring against taxes that are due and payable at Date of Policy and insuring against survey matters that were formerly addressed in similar language in Schedule B of the 2000 ALTA Short Form Loan Policy. However, unlike the prior Short Form Loan Policies, the new Short Form Loan Policy does not contain an exception for taxes that are secured by a lien and that are not yet due and payable at Date of Policy. The combination of the lack of the tax exception, the insurance in the incorporated 2006 Loan Policy against taxes due and payable, and the Exclusion for post-policy tax liens could mean that the Short Form Loan Policy insures against existing liens for taxes not yet due and payable at Date of Policy, but does not insure against tax liens arising after Date of Policy and before recording. The exception in Paragraph 1 (relating to covenants, conditions and restrictions) concerning environmental matters was amended to conform to the environmental language of Covered Risk 12 of the Homeowner’s Policy adopted in 2003. The amended language is:

“As used in paragraph 1(a), the words “covenants, conditions, or restrictions” do not refer to or include any covenant, condition, or restriction (a) relating to obligations of any type to perform maintenance, repair or remediation on the Land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the Land has been recorded or filed in the Public Records at Date of Policy and is not referenced in an addendum attached to this policy.”

No other existing policies were replaced or amended. For example, the ALTA did not amend the Homeowner’s Policy of Title Insurance, the Expanded Coverage Residential Loan Policy, the Short Form Expanded Coverage Residential Loan Policy, the Residential Title Insurance Policy, the Recorded Document Guarantee, the Master Residential Loan Policy, the Limited Coverage Junior Loan Policy, the Short Form Limited Coverage Junior Loan Policy, or the U.S. Policy. Those policies will be reviewed in the future.

X. REVISED COMMITMENTS

Both the 1966 and 1982 (Plain Language) Commitment Forms were revised and now have an effective date of 6/17/06. The new ALTA Commitments are the ALTA Commitment Form (6/17/06) and the ALTA Plain Language Commitment Form (6/17/06).

These Commitments should be used when the 2006 Policies will be issued, but not when the 1992 or 1970 Policies will be issued.
The ALTA did not amend the Short Form Commitment (1/17/04). This Commitment may be used if a Short Form Policy (including the 2006 Short Form Loan Policy) is issued. It avoids the need to refer to specific Schedule B exceptions, so long as a regular “long form” policy (such as a Homeowner’s Policy) is not issued.

Paragraph 4 of the Conditions of the ALTA Commitment Form (6/17/06) states that it is an insurance form and not an abstract:

“This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.”

Paragraph 5 of the Conditions of the ALTA Commitment Form (6/17/06) discloses that the ALTA Policy to be issued includes an arbitration provision:

“The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is $2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at http://www.alta.org/.”

This Commitment, like the ALTA Plain Language Commitment Form (6/17/06), now provides that:

“The Company will provide a sample of the policy form upon request.”

The ALTA Plain Language Commitment Form (6/17/06) discloses that:

“The Policy contains an arbitration clause. All arbitrable matters when the Amount of Insurance is $2,000,000 or less shall be arbitrated at the option of either the Company or you as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <http://www.alta.org/>.”

No other significant changes were made to the Commitments. Based on these changes, the policies that are referenced should be more likely to be enforceable in their entirety, because clauses such as the arbitration provision should be construed as clearly incorporated and as notice to the proposed insured.

The ALTA did not amend the Short Form Commitment (1/17/04). This Commitment is designed for issuance when a Short Form Policy is contemplated. This Commitment will not refer to specific Schedule B exceptions, provided that no regular “long form” policy (such as a Homeowner’s Policy) will be issued.

XI. REVISED REINSURANCE AGREEMENTS

The ALTA adopted the Facultative Reinsurance Agreement (6/17/06), Tertiary Facultative Reinsurance Agreement (Type I) (6/17/06), and Quaternary Facultative Reinsurance Agreement (Type I) (6/17/06).

The following changes were made to the Facultative Reinsurance Agreement (6/17/06), and similar changes were made to the Tertiary Facultative Reinsurance Agreement (Type I) and the Quaternary Facultative Reinsurance Agreement (Type I):

“5. PAYMENT OF LOSSES

“Any loss or aggregate of losses sustained and payable by Ceder under the Policy, including costs, attorneys’ fees and expenses, which do not exceed the amount of Primary Loss Risk retained by Ceder shall be sustained and paid by Ceder without recourse to Reinsurer. Reinsurer’s liability and any loss or aggregate of losses payable by Reinsurer under Section 2 of this Agreement, including costs, attorneys’ fees and expenses, shall be the amount of Reinsurer’s proportionate share of the Secondary Loss Risk as shown in Schedule I that exceeds the Primary Loss Risk retained by Ceder.

Losses under the Policy for which Ceder becomes liable, including costs, attorneys’ fees and expenses, which do not exceed the amount of Primary Loss Risk retained, and its proportionate fractional share of the Secondary Loss Risk, if any, shall be sustained and paid by Ceder, without recourse to Reinsurer, and shall reduce pro tanto Ceder’s retained Loss Risk.

“In the event if the loss or aggregate of all losses under the Policy exceeds the amount thereof, the Ceder shall pay that portion of the excess as the proportion of its retained Loss Risk, both Primary and Secondary, bears to the amount of the Policy, and the balance of the excess shall be divided between among the Reinsurers in the proportions that the amount assumed by each of the Reinsurers bears to the amount of the Policy.

“Notwithstanding anything stated in this Section, Ceder’s retained Loss Risk, both whether Primary, and Secondary, or according to the preceding paragraph, shall not be reduced and Reinsurer’s liability shall not be increased by the payment of any loss not assumed by Reinsurer under Section 2.”

These changes clarify that the losses in excess of Primary Loss Risk shall be sustained proportionately by both the Ceder and the Reinsurer in accordance with their portion of the Secondary Loss Risk (and any other level for other
Agreements), and that the Ceder will not sustain its Secondary Loss Risk (and any other level for other Agreements) prior to loss sustained by a Reinsurer on the same level.

XII. ADOPTION OF NEW AND REVISED ENDORSEMENTS (ENDORSEMENTS REVISED OR ADOPTED 6/17/06)

The ALTA now has two sets of endorsements: one set for the 1992 Policies and one set for the 2006 Policies. The new or revised endorsements that were adopted for issuance with the 1992 Policies (and equally applicable to the 1970 Policies) are:

| ALTA Endorsement 7.1 (Manufactured Housing Unit-Conversion; Loan) (6/17/06) New | ALTA Endorsement 7.2 (Manufactured Housing Unit-Conversion; Owner’s) (6/17/06) New |
| ALTA Endorsement 14.3 (Future Advance-Reverse Mortgage) (6/17/06) New | ALTA Endorsement 22 (Location) (6/17/06) New |
| ALTA Endorsement 22.1 (Location and Map) (6/17/06) New |

ALTA Endorsement 7.1

The new ALTA Endorsement 7.1 is issued with a Loan Policy and insures (1) that the owner of the land owns the manufactured housing unit, (2) that the manufactured housing unit is on the land, (3) that the manufactured housing unit is real property, (4) that there are no personal property liens against the manufactured housing unit (unless excepted in Schedule B), (5) that the lien of the insured mortgage attaches to the manufactured housing unit, and (6) that the lien of the Insured Mortgage can be foreclosed in a single foreclosure procedure against the manufactured housing unit and (remaining) land. Fannie Mae and Freddie Mac wanted this endorsement because of concern that several states do not establish a procedure for surrender of title to a manufactured home, and because separate foreclosures would have to be conducted for the land and the unit.

ALTA Endorsement 7.2

The new ALTA Endorsement 7.2 is issued with an Owner’s Policy and provides the same insurance as the ALTA Endorsement 7.1, except that it does not insure that the lien of the Insured Mortgage attaches to the manufactured housing unit or that the lien can be foreclosed in a single foreclosure procedure.

ALTA Endorsements 9, 9.1, 9.2

The existing (revised) ALTA Endorsements 9, 9.1 and 9.2 were amended to modify the exception to environmental matters.

The amended exception to environmental matters is consistent with Covered Risk 12 of the Homeowner’s Policy that was amended in 2003. For example, the substitute language for the ALTA Endorsement 9 is:

“As used in paragraphs 1.b(i) and 5, the words “covenants, conditions, or restrictions” do not include any covenants, conditions, or restrictions (a) relating to obligations of any type to perform maintenance, repair, or remediation on the land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the land has been recorded or filed in the public records at Date of Policy and is not excepted in Schedule B.”
ALTA Endorsements 9.3, 9.4, and 9.5

The ALTA also adopted new Endorsements 9.3, 9.4, and 9.5. The ALTA Endorsement 9.3 is similar to the existing ALTA Endorsement 9, the ALTA Endorsement 9.4 is similar to the existing ALTA Endorsement 9.1, and the ALTA Endorsement 9.5 is similar to the existing ALTA Endorsement 9.2. These endorsements provide improved coverage against damage to future improvements because of development of minerals. The ALTA Endorsement 9.3 (6/17/06) insures against:

“Damage to improvements, including lawns, shrubbery, or trees, located on the land on or after Date of Policy resulting from the future exercise of any right to use the surface of the land for the extraction or development of minerals excepted from the description of the land or excepted in Schedule B.”

The ALTA Endorsement 9.4 (6/17/06) insures against:

“Damage to improvements (excluding lawn, shrubbery, or trees) constructed on the land after Date of Policy resulting from the future exercise of any right existing at Date of Policy to use the surface of the land for the extraction or development of minerals excepted from the description of the land or excepted in Schedule B.”

The ALTA Endorsement 9.5 (6/17/06) insures against:

“Damage to improvements (excluding lawns, shrubbery, or trees), located on the land on or after Date of Policy resulting from the future exercise of any right existing at Date of Policy to use the surface of the land for the extraction or development of minerals excepted from the description of the land or excepted in Schedule B.”

ALTA Endorsement 14.3

The new ALTA Endorsement 14.3 (Future Advance – Reverse Mortgage) (6/17/06) insures the validity, enforceability and priority of the lien of the insured mortgage for future Advances pursuant to a Reverse Mortgage. It also includes insurance as to variable interest and negative amortization. Unlike most Reverse Mortgage Endorsements, this Endorsement insures against loss because of:

“Loss of the lien of the insured mortgage as security for the unpaid indebtedness and Advances resulting from (i) re-Advances and repayments of indebtedness, (ii) failure to comply with the requirements of state law to secure Advances, (iii) failure of the insured mortgage to state the term for Advances, or (iv) failure of the insured mortgage to state the maximum amount secured by the insured mortgage.

“Failure of the mortgagors to be at least 62 years of age at Date of Policy.”

This language does not appear in other Reverse Mortgage Endorsements, although the coverage relating to age limits established for HUD HECM Loans has been insured by the Texas Reverse Mortgage Endorsement (T-43).

ALTA Endorsements 22 and 22.1

The new ALTA Endorsements 22 and 22.1 are similar to the CLTA Location Endorsement (116). ALTA Endorsement 22 (Location) insures that a specified improvement, known as a stated street address, is located on the Land at Date of Policy. ALTA Endorsement 22.1 (Location and Map) also insures that the map, if any, attached to the policy correctly shows the location and dimensions of the Land according to the Public Records. The ALTA 22.1 can be issued without attaching a map.

XIII. CONFORMING CHANGES TO EXISTING AND NEW ENDORSEMENTS TO ISSUE WITH 2006 POLICIES (-06 ENDORSEMENTS)

The ALTA has adopted modified versions of each of the existing and new endorsements that are designed for issuance with the new ALTA Owner’s Policy (6/17/06) and new ALTA Loan Policy (6/17/06). These endorsements include in the assigned numbering “-06” and incorporate the terms used in the new policies, such as “Land,” “Amount of Insurance,” “Title,” “Insured,” and “Indebtedness.” These endorsements adopted for issuance with the 2006 Policies are listed on the right-hand column of Table 3 below. Endorsements that may be issued with the 1992 Policies (and 1970 Policies) are listed on the left-hand column of Table 3 below.

<table>
<thead>
<tr>
<th>Table 3</th>
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</thead>
<tbody>
<tr>
<td><strong>ALTA Endorsements that may be issued with the 1992 Policies</strong></td>
</tr>
<tr>
<td>ALTA</td>
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<tr>
<td>ALTA Endorsement 2 (Truth-in-Lending)</td>
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<tr>
<td>ALTA Endorsement 3 (Zoning – Unimproved Land)</td>
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<tr>
<td>ALTA Endorsement 3.1 (Zoning – Improved Land)</td>
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<tr>
<td>ALTA Endorsement 4 (Condominium)</td>
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<tr>
<td>ALTA Endorsement 4.1 (Condominium)</td>
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<tr>
<td>ALTA Endorsement 5 (Planned Unit Development)</td>
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<td>ALTA Endorsement 5.1 (Planned Unit Development)</td>
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<td>ALTA Endorsement 6 (Variable Rate)</td>
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<td>ALTA Endorsement 6.1 (Variable Rate – Regulations)</td>
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<td>ALTA Endorsement 7 (Manufactured Housing Unit)</td>
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<td>ALTA Endorsement 7.1 (Manufactured Housing Unit-Conversion; Loan)</td>
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<td>ALTA Endorsement 7.2 (Manufactured Housing Unit-Conversion; Owner’s)</td>
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<td>ALTA Endorsement 8.1 (Environmental Protection Lien)</td>
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<td>ALTA Endorsement 9 (Restrictions, Encroachments, Minerals)</td>
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<td>ALTA Endorsement 9.1 (Restrictions, Encroachments, Minerals-Owner’s Policy-Unimproved Land)</td>
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<td>ALTA Endorsement 9.2 (Restrictions, Encroachments, Minerals-Owner’s Policy-Improved Land)</td>
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<td>ALTA Endorsement 10 (Assignment)</td>
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<td>ALTA Endorsement 10.1 (Assignment and Date Down)</td>
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<td>ALTA Endorsement 11 (Mortgage Modification)</td>
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<td>ALTA Endorsement 12 (Aggregation)</td>
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<td>ALTA Endorsement 13 (Leasehold-Owner’s)</td>
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<tr>
<td>ALTA Endorsement 13.1 (Leasehold-Loan)</td>
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<td>ALTA Endorsement 14 (Future Advance-Priority)</td>
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<tr>
<td>ALTA Endorsement 14.1 (Future Advance-Knowledge)</td>
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<td>ALTA Endorsement 14.2 (Future Advance-Letter of Credit)</td>
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<td>ALTA Endorsement 14.3 (Future Advance-Reverse)</td>
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<td>ALTA Endorsement 15 (Nonimputation-Full Equity Transfer)</td>
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<td>--------------------------------------------------------</td>
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<tr>
<td>ALTA Endorsement 15.1 (Nonimputation-Additional Insured)</td>
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<td>ALTA Endorsement 15.2 (Nonimputation-Partial Equity Transfer)</td>
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<td>ALTA Endorsement 16 (Mezzanine Financing)</td>
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<td>ALTA Endorsement 17 (Access and Entry)</td>
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<td>ALTA Endorsement 17.1 (Indirect Access and Entry)</td>
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<td>ALTA Endorsement 18 (Single Tax Parcel)</td>
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<td>ALTA Endorsement 18.1 (Multiple Tax Parcel)</td>
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<td>ALTA Endorsement 19 (Contiguity-Multiple Parcels)</td>
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<td>ALTA Endorsement 19.1 (Contiguity-Single Parcel)</td>
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<td>ALTA Endorsement 20 (First Loss-Multiple Parcel Transaction)</td>
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<td>ALTA Endorsement 21 (Creditors’ Rights)</td>
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<td>ALTA Endorsement 22 (Location)</td>
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<td>ALTA Endorsement 22.1 (Location and Map)</td>
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</tbody>
</table>

XIV. DE-CERTIFICATION OF 1992 POLICIES AND APPLICABLE ENDORSEMENTS

The Existing ALTA Loan Policy (10/17/92), ALTA Owner’s Policy (10/17/92), Short Form Loan Policy (10/21/00), and Endorsements applicable only to the 1992 Policies will be de-certified as ALTA Forms on June 17, 2007. Thereafter, they may continue to be issued if available in the state and if specifically requested by the customer.

The ALTA did not amend the Homeowner’s Policy of Title Insurance, the Expanded Coverage Residential Loan Policy, the Short Form Expanded Coverage Residential Loan Policy, the Residential Title Insurance Policy, the Recorded Document Guarantee, the Master Residential Loan Policy, the Limited Coverage Junior Loan Policy, the Short Form Limited Coverage Junior Loan Policy, or the U.S. Policy. These forms will not be de-certified and the Endorsements applicable to those Policies will not be de-certified.
Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

COVERED RISKS
SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, BLANK TITLE INSURANCE COMPANY, a Blank corporation (the “Company”) insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
   (a) A defect in the Title caused by
       (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
       (ii) failure of any person or Entity to have authorized a transfer or conveyance;
       (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
       (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
       (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
       (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
       (vii) a defective judicial or administrative proceeding.
   (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
   (c) 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. The term “encroachment” includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
   (a) the occupancy, use, or enjoyment of the Land;
   (b) the character, dimensions, or location of any improvement erected on the Land;
   (c) the subdivision of land; or
   (d) environmental protection
   if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective

   (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors’ rights laws; or

   (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors’ rights laws by reason of the failure of its recording in the Public Records

      (i) to be timely, or

      (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.

10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys’ fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

BY: ___________ PRESIDENT

BY: ___________ SECRETARY
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
   (i) the occupancy, use, or enjoyment of the Land;
   (ii) the character, dimensions, or location of any improvement erected on the Land;
   (iii) the subdivision of land; or
   (iv) environmental protection;
   or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
   (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.

2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.

3. Defects, liens, encumbrances, adverse claims, or other matters
   (a) created, suffered, assumed, or agreed to by the Insured Claimant;
   (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
   (c) resulting in no loss or damage to the Insured Claimant;
   (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
   (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.

4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
   (a) a fraudulent conveyance or fraudulent transfer; or
   (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.

5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.
1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) “Amount of Insurance”: The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 11 and 12 of these Conditions.

(b) “Date of Policy”: The date designated as “Date of Policy” in Schedule A.

(c) “Entity”: A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) “Insured”: The Insured named in Schedule A.

(i) The term “Insured” also includes:

(A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;

(B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(C) successors to an Insured by its conversion to another kind of Entity;

(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,

(2) if the grantee wholly owns the named Insured,

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or

(4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

(ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.

(e) “Insured Claimant”: An Insured claiming loss or damage.

(f) “Knowledge” or “Known”: Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(g) “Land”: The land described in Schedule A, and affixed improvements that by law constitute real property. The term “Land” does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.

(h) “Mortgage”: Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(i) “Public Records”: Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), “Public Records” shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.

(j) “Title”: The estate or interest described in Schedule A.

(k) “Unmarketable Title”: Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the
In case of a claim under this policy, the Company shall have the following additional options:

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company’s expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company’s obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys’ fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.
(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or

(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.
13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company’s right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. ARBITRATION

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association (“Rules”). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is $2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of $2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

17. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at [fill in].

NOTE: Bracketed [] material optional
SCHEDULE A

Name and Address of Title Insurance Company:
[File No.: ]  Policy No.:  

Address Reference:

Amount of Insurance: $  
Premium: $  

Date of Policy:
[ at a.m./p.m. ]

1. Name of Insured:

2. The estate or interest in the Land that is insured by this policy is:

3. Title is vested in:

4. The Land referred to in this policy is described as follows:
SCHEDULE B

[File No.   ]       Policy No.

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. [Policy may include regional exceptions if so desired by the issuing
2. Company.]
3. [Variable exceptions such as taxes, easements, CC&R's, etc., shown here]
4.
EXHIBIT 2

American Land Title Association

Loan Policy
(6-17-06)

LOAN POLICY OF TITLE INSURANCE
Issued by

Blank Title Insurance Company

Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 17 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, BLANK TITLE INSURANCE COMPANY, a Blank corporation (the “Company”) insures as of Date of Policy and, to the extent stated in Covered Risks 11, 13, and 14, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.

2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from

   (a) A defect in the Title caused by

      (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;

      (ii) failure of any person or Entity to have authorized a transfer or conveyance;

      (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;

      (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;

      (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;

      (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or

      (vii) a defective judicial or administrative proceeding.

   (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.

   (c) 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. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.

3. Unmarketable Title.

4. No right of access to and from the Land.

5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to

   (a) the occupancy, use, or enjoyment of the Land;

   (b) the character, dimensions, or location of any improvement erected on the Land;

   (c) the subdivision of land; or

   (d) environmental protection

if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.

6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.

7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.

8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title. This Covered Risk includes but is not limited to insurance against loss from any of the following impairing the lien of the Insured Mortgage:

   (a) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
   (b) failure of any person or Entity to have authorized a transfer or conveyance;
   (c) the Insured Mortgage not being properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
   (d) failure to perform those acts necessary to create a document by electronic means authorized by law;
   (e) a document executed under a falsified, expired, or otherwise invalid power of attorney;
   (f) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
   (g) a defective judicial or administrative proceeding.

10. The lack of priority of the lien of the Insured Mortgage upon the Title over any other lien or encumbrance.

11. The lack of priority of the lien of the Insured Mortgage upon the Title as security for each and every advance of proceeds of the loan secured by the Insured Mortgage over any statutory lien for services, labor, or material arising from construction of an improvement or work related to the Land when the improvement or work is either

   (i) contracted for or commenced on or before Date of Policy; or
   (ii) contracted for, commenced, or continued after Date of Policy if the construction is financed, in whole or in part, by proceeds of the loan secured by the Insured Mortgage that the Insured has advanced or is obligated on Date of Policy to advance; and

   (b) over the lien of any assessments for street improvements under construction or completed at Date of Policy.

12. The invalidity or unenforceability of any assignment of the Insured Mortgage, provided the assignment is shown in Schedule A, or the failure of the assignment shown in Schedule A to vest title to the Insured Mortgage in the named Insured assignee free and clear of all liens.

13. The invalidity, unenforceability, lack of priority, or avoidance of the lien of the Insured Mortgage upon the Title resulting from the avoidance in whole or in part, or from a court order providing an alternative remedy, of any transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction creating the lien of the Insured Mortgage because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or

   (b) because the Insured Mortgage constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records

   (i) to be timely, or
   (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.

14. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 13 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the Insured Mortgage in the Public Records.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

BY: _______________ PRESIDENT

BY: _______________ SECRETARY
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys’ fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
   (i) the occupancy, use, or enjoyment of the Land;
   (ii) the character, dimensions, or location of any improvement erected on the Land;
   (iii) the subdivision of land; or
   (iv) environmental protection;

or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.

   (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.

2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.

3. Defects, liens, encumbrances, adverse claims, or other matters
   (a) created, suffered, assumed, or agreed to by the Insured Claimant;
   (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
   (c) resulting in no loss or damage to the Insured Claimant;
   (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
   (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.

4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.

5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.

6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws, that the transaction creating the lien of the Insured Mortgage is
   (a) a fraudulent conveyance or fraudulent transfer, or
   (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.

7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).
1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) “Amount of Insurance”: The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b) or decreased by Section 10 of these Conditions.

(b) “Date of Policy”: The date designated as “Date of Policy” in Schedule A.

(c) “Entity”: A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) “Indebtedness”: The obligation secured by the Insured Mortgage including one evidenced by electronic means authorized by law, and if that obligation is the payment of a debt, the Indebtedness is the sum of

   (i) the amount of the principal disbursed as of Date of Policy;
   (ii) the amount of the principal disbursed subsequent to Date of Policy;
   (iii) the construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the Land or related to the Land that the Insured was and continued to be obligated to advance at Date of Policy and at the date of the advance;
   (iv) interest on the loan;
   (v) the prepayment premiums, exit fees, and other similar fees or penalties allowed by law;
   (vi) the expenses of foreclosure and any other costs of enforcement;
   (vii) the amounts advanced to assure compliance with laws or to protect the lien or the priority of the lien of the Insured Mortgage before the acquisition of the estate or interest in the Title;
   (viii) the amounts to pay taxes and insurance; and
   (ix) the reasonable amounts expended to prevent deterioration of improvements;

   but the Indebtedness is reduced by the total of all payments and by any amount forgiven by an Insured.

(e) “Insured”: The Insured named in Schedule A.

(i) The term “Insured” also includes

   (A) the owner of the Indebtedness and each successor in ownership of the Indebtedness, whether the owner or successor owns the Indebtedness for its own account or as a trustee or other fiduciary, except a successor who is an obligor under the provisions of Section 12(c) of these Conditions;
   (B) the person or Entity who has “control” of the “transferable record,” if the Indebtedness is evidenced by a “transferable record,” as these terms are defined by applicable electronic transactions law;
   (C) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
   (D) successors to an Insured by its conversion to another kind of Entity;
   (E) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

      (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
      (2) if the grantee wholly owns the named Insured, or
      (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity;
   (F) any government agency or instrumentality that is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing the Indebtedness secured by the Insured Mortgage, or any part of it, whether named as an Insured or not;

(ii) With regard to (A), (B), (C), (D), and (E) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured, unless the successor acquired the Indebtedness as a purchaser for value without Knowledge of the asserted defect, lien, encumbrance, or other matter insured against by this policy.

(f) “Insured Claimant”: An Insured claiming loss or damage.

(g) “Insured Mortgage”: The Mortgage described in paragraph 4 of Schedule A.

(h) “Knowledge” or “Known”: Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(i) “Land”: The land described in Schedule A, and affixed improvements that by law constitute real property. The term “Land” does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or
6. "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(k) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.

(l) "Title": The estate or interest described in Schedule A.

(m) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title or a prospective purchaser of the Insured Mortgage to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured after acquisition of the Title by an Insured or after conveyance by an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured of any claim of title or interest that is adverse to the Title or the lien of the Insured Mortgage, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title or the lien of the Insured Mortgage, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title or the lien of the Insured Mortgage, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title, the lien of the Insured Mortgage, or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured...
under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others, unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance or to Purchase the Indebtedness.

(i) To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys’ fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay; or

(ii) To purchase the Indebtedness for the amount of the Indebtedness on the date of purchase, together with any costs, attorneys’ fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of purchase and that the Company is obligated to pay.

When the Company purchases the Indebtedness, the Insured shall transfer, assign, and convey to the Company the Indebtedness and the Insured Mortgage, together with any collateral security.

Upon the exercise by the Company of either of the options provided for in subsections (a)(i) or (ii), all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in those subsections, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys’ fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) to pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys’ fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company’s obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the least of

(i) the Amount of Insurance,

(ii) the Indebtedness,

(iii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy, or

(iv) if a government agency or instrumentality is the Insured Claimant, the amount it paid in the acquisition of the Title or the Insured Mortgage in satisfaction of its insurance contract or guaranty.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title or the lien of the Insured Mortgage, as insured,

(i) the Amount of Insurance shall be increased by 10%; and
the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In the event the Insured has acquired the Title in the manner described in Section 2 of these Conditions or has conveyed the Title, then the extent of liability of the Company shall continue as set forth in Section 8(a) of these Conditions.

(d) In addition to the extent of liability under (a), (b), and (c), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, or establishes the lien of the Insured Mortgage, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title or to the lien of the Insured Mortgage, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

(a) All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment. However, any payments made prior to the acquisition of Title as provided in Section 2 of these Conditions shall not reduce the Amount of Insurance afforded under this policy except to the extent that the payments reduce the Indebtedness.

(b) The voluntary satisfaction or release of the Insured Mortgage shall terminate all liability of the Company except as provided in Section 2 of these Conditions.

11. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

12. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) The Company's Right to Recover

Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title or Insured Mortgage and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Insured's Rights and Limitations

(i) The owner of the Indebtedness may release or substitute the personal liability of any debtor or guarantor, extend or otherwise modify the terms of payment, release a portion of the Title from the lien of the Insured Mortgage, or release any collateral security for the Indebtedness, if it does not affect the enforceability or priority of the lien of the Insured Mortgage.

(ii) If the Insured exercises a right provided in (b)(i), but has Knowledge of any claim adverse to the Title or the lien of the Insured Mortgage insured against by this policy, the Company shall be required to pay only that part of any losses insured against by this policy that shall exceed the amount, if any, lost to the Company by reason of the impairment by the Insured Claimant of the Company's right of subrogation.

(c) The Company's Rights Against Noninsured Obligors

The Company's right of subrogation includes the Insured's rights against non-insured obligors including the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

The Company's right of subrogation shall not be avoided by acquisition of the Insured Mortgage by an obligor (except an obligor described in Section 1(e)(i)(F) of these Conditions) who acquires the Insured Mortgage as a result of an indemnity, guarantee, other policy of insurance, or bond, and the obligor will not be an Insured under this policy.
13. **ARBITRATION**

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is $2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of $2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

14. **LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or lien of the Insured Mortgage or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

15. **SEVERABILITY**

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

16. **CHOICE OF LAW; FORUM**

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title or the lien of the Insured Mortgage that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

17. **NOTICES, WHERE SENT**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at [fill in].

NOTE: Bracketed [ ] material optional
Name and Address of Title Insurance Company:

[File No.:   ] Policy No.:
Loan No.:
Address Reference:
Amount of Insurance: $ [Premium: $      ]
Date of Policy:          [at a.m./p.m.]

1. Name of Insured:
2. The estate or interest in the Land that is encumbered by the Insured Mortgage is:
3. Title is vested in:
4. The Insured Mortgage and its assignments, if any, are described as follows:
5. The Land referred to in this policy is described as follows:
6. This policy incorporates by reference those ALTA endorsements selected below:
   - 4-06  (Condominium)
   - 4.1-06
   - 5-06  (Planned Unit Development)
   - 5.1-06
   - 6-06  (Variable Rate)
   - 6.2-06  (Variable Rate--Negative Amortization)
   - 8.1-06  (Environmental Protection Lien) Paragraph b refers to the following state statute(s):
   - 9-06  (Restrictions, Encroachments, Minerals)
   - 13.1-06  (Leasehold Loan)
   - 14-06  (Future Advance-Priority)
   - 14.1-06  (Future Advance-Knowledge)
   - 14.3-06  (Future Advance-Reverse Mortgage)
   - 22-06  (Location) The type of improvement is a _________________, and the street address is as shown above.]
SCHEDULE B

[File No. ] Policy No.

EXCEPTIONS FROM COVERAGE

[Except as provided in Schedule B - Part II,] [ ]this policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

[PART I

PART II

In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the Insured Mortgage:]
EXHIBIT 3

ALTA Commitment Form

COMMITMENT FOR TITLE INSURANCE

Issued by

Blank Title Insurance Company

Blank Title Insurance Company, a corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate (here state the time period)* after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

IN WITNESS WHEREOF, Blank Title Insurance Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.**

BLANK TITLE INSURANCE COMPANY

BY:_________________________________________

PRESIDENT

Attest:_______________________________________

SECRETARY

Note: * The time to be stated is optional with the company and should conform to local usage.

** If the Commitment is to be executed by a validating officer, then prior to the "In Witness Whereof" there should be inserted: "This Commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory." the manner of execution will conform to the company's practice and will of necessity require some modification in the language identifying the manner of execution. This is deemed a matter of format.
CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.

2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.

3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and Stipulations and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.

4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.

5. The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is $2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <http://www.alta.org/>.
SCHEDULE A

1. Effective Date:

2. Policy or Policies to be issued: Amount
   a. _____ Owner’s Policy (Identify form used): $__________
      Proposed Insured:
   b. _____ Loan Policy (Identify form used): $__________
      Proposed Insured:

(Note: The Company, in printing, should set forth and identify the form or forms of policies of title insurance to be used. If Commitment is printed showing more than one type of policy, the amount of the policy or policies should be completed and the box checked as to all forms proposed to be issued. The manner of setting up and identifying the policy or policies to be issued is a matter of format.)

3. The estate or interest in the land described or referred to in this Commitment is _____________________________
   (Identify estate covered, i.e. Fee, Leasehold, etc.)

4. Title to the ___________________________ estate or interest in the land is at the Effective Date vested in:

5. The land referred to in this Commitment is described as follows:

* Items 3 and 4 may be combined or item 3 eliminated completely in instances where the estate to be covered has already been created and is the same as the estate reported on as of the Effective Date of the Commitment. If, however, the estate to be covered is less than a fee and has not yet been created and the estate reported on at the Effective Date of the Commitment is the fee, then it would be more appropriate to set forth both items 3 and 4 in the language suggested or in appropriate language, these being matters of format rather than substance.
SCHEDULE B*

1. Requirements:
   (Note: Appropriate language should be inserted to set forth the requirements of the Company. In many areas, a subcaption may be used such as: “Instruments in insurable form which must be executed, delivered, and duly filed for record.”)

2. Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

   Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

   Note: There should be set forth in paragraph numbered II of Schedule B all matters that would be shown in Schedule B of an Owner’s Policy issued on the effective date of the Commitment, including those general exceptions such as rights of parties in possession, survey matters, etc., which in many instances are printed as part of Schedule B of the Policy. It is proper to note that an exception shown may be omitted from the Policy as outside of the coverage of the Policy to be issued, or for some other reason.

   * In areas where it is not the custom for title companies to state requirements for insurance, the Commitment would be printed without paragraph numbered I of Schedule B and only paragraph numbered II would be shown as a caption for Schedule B.
TITLE INSURANCE COMMITMENT

by

Blank Title Insurance Company

AGREEMENT TO ISSUE POLICY

We agree to issue policy to you according to the terms of the Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within ____________ (insert time period) after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

Our obligation under this Commitment is limited by the following:

The Provisions in Schedule A.

The Requirements in Schedule B-I.

The Exceptions in Schedule B-II.

The Conditions on Page ______.

This Commitment is not valid without SCHEDULE A and Sections I and II of SCHEDULE B.

This Commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory.
ALTA Plain Language Commitment Form

INFORMATION

The Title Insurance Commitment is a legal contract between you and the Company. It is issued to show the basis on which we will issue a Title Insurance Policy to you. The Policy will insure you against certain risks to the land title, subject to the limitations shown in the Policy.

The Company will give you a sample of the Policy form, if you ask.

The Policy contains an arbitration clause. All arbitrable matters when the Amount of Insurance is $2,000,000 or less shall be arbitrated at the option of either the Company or you as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <http://www.alta.org/>.

The Commitment is based on the land title as of the Commitment Date. Any changes in the land title or the transaction may affect the Commitment and the Policy.

The Commitment is subject to its Requirements, Exceptions, and Conditions.

THIS INFORMATION IS NOT PART OF THE TITLE INSURANCE COMMITMENT. YOU SHOULD READ THE COMMITMENT VERY CAREFULLY.

If you have any questions about the Commitment, contact _____________________________

______________________________________.
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Page

AGREEMENT TO ISSUE POLICY

SCHEDULE A

1. Commitment Date
2. Policies to be Issued, Amounts and Proposed Insureds
3. Interest in the Land and Owner
4. Description of the Land

SCHEDULE B-I -- REQUIREMENTS

SCHEDULE B-II -- EXCEPTIONS

CONDITIONS
SCHEDULE A

1. Commitment Date:

2. Policy (or Policies) to be issued:
   a. Owner's Policy
      Policy Amount $________
      Proposed Insured:
   b. Loan Policy
      Policy Amount $________
      Proposed Insured:
   c. Proposed Insured:
      Policy Amount $________

3. ____________________ interest in the land described in this Commitment is owned, at the Commitment Date, by
   ____________________.

4. The land referred to in the Commitment is described as follows:
SCHEDULE B - SECTION I

REQUIREMENTS

The following requirements must be met:

a. Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.

b. Pay us the premiums, fees and charges for the policy.

c. Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.

(A period may be added to the above or a colon may be added and specific documents typed in.)

d. You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.

(Additional requirements may be listed here.)

SCHEDULE B - SECTION II

EXCEPTIONS

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

CONDITIONS

1. DEFINITIONS

   (a) “Mortgage” means mortgage, deed of trust or other security instrument. (b) “Public Records” means title records that give constructive notice of matters affecting your title according to the state statutes where your land is located.

2. LATER DEFECTS

   The Exceptions in Schedule B - Section II may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attach between the Commitment Date and the date on which all of the Requirements (a) and (c) of Schedule B - Section I are met. We shall have no liability to you because of this amendment.

3. EXISTING DEFECTS

   If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

4. LIMITATION OF OUR LIABILITY

   Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying on this Commitment when you acted in good faith to:

   Comply with the Requirements shown in Schedule B - Section I
   or

   Eliminate with our written consent any Exceptions shown in Schedule B - Section II.

   We shall not be liable for more than the Policy Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

5. CLAIMS MUST BE BASED ON THIS COMMITMENT

   Any claim, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms.
EXHIBIT 5

American Land Title Association

Endorsement 7.1
(Manufactured Housing—Conversion; Loan)
Adopted 06/17/06

ENDORSEMENT
Attached to Policy No.

Issued by

BLANK TITLE INSURANCE COMPANY

1. The term "Land" as defined in this policy includes the manufactured housing unit located on the land described in Schedule A at Date of Policy.

2. Unless excepted in Schedule B, the Company insures against loss or damage, sustained by the insured if, at Date of Policy:
   (a) A manufactured housing unit is not located on the land described in Schedule A.
   (b) The manufactured housing unit located on the land is not real property under the law of the state where the Land described in Schedule A is located.
   (c) The owner of the land is not the owner of the manufactured housing unit.
   (d) Any lien is attached to the manufactured housing unit as personal property, including
       (i) a federal, state, or other governmental tax lien,
       (ii) UCC security interest,
       (iii) a motor vehicular lien, or
       (iv) other personal property lien.
   (e) The lien of the insured mortgage is not enforceable against the Land.
   (f) The lien of the insured mortgage is not enforceable in a single foreclosure procedure.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

By: ______________________________________

Authorized Signatory
ENDORSEMENT
Attached to Policy No.
Issued by

BLANK TITLE INSURANCE COMPANY

3. The term "Land" includes the manufactured housing unit located on the land described in Schedule A at Date of Policy.

4. Unless excepted in Schedule B, the Company insures against loss or damage sustained by the Insured if, at Date of Policy:
   (a) A manufactured housing unit is not located on the land described in Schedule A.
   (b) The manufactured housing unit located on the land is not real property under the law of the state where the Land described in Schedule A is located.
   (c) The owner of the land is not the owner of the manufactured housing unit.
   (d) Any lien is attached to the manufactured housing unit as personal property, including
      (i) a federal, state, or other governmental tax lien,
      (ii) UCC security interest,
      (iii) a motor vehicular lien, or
      (iv) other personal property lien.
   (e) The lien of the Insured Mortgage is not enforceable against the Land.
   (f) The lien of the Insured Mortgage is not enforceable in a single foreclosure procedure.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

By: ____________________________
    Authorized Signatory
EXHIBIT 6

American Land Title Association

Endorsement 7.2
(Manufactured Housing—Conversion; Owners)
Adopted 06/17/06

ENDORSEMENT
Attached to Policy No.
Issued by

BLANK TITLE INSURANCE COMPANY

5. The term "Land" as defined in this policy includes the manufactured housing unit located on the land described in Schedule A at Date of Policy.

6. Unless excepted in Schedule B, the Company insures against loss or damage, sustained by the insured if, at Date of Policy:
   (a) A manufactured housing unit is not located on the land described in Schedule A.
   (b) The manufactured housing unit located on the land is not real property under the law of the state where the Land described in Schedule A is located.
   (c) The insured is not the owner of the manufactured housing unit.
   (d) Any lien is attached to the manufactured housing unit as personal property, including:
      (v) a federal, state, or other governmental tax lien,
      (vi) UCC security interest,
      (vii) a motor vehicular lien, or
      (viii) other personal property lien.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

By: ______________________________________
Authorized Signatory
7. The term "Land" includes the manufactured housing unit located on the land described in Schedule A at Date of Policy.

8. Unless excepted in Schedule B, the Company insures against loss or damage, sustained by the Insured if, at Date of Policy:
   (a) A manufactured housing unit is not located on the land described in Schedule A.
   (b) The manufactured housing unit located on the land is not real property under the law of the state where the Land described in Schedule A is located.
   (c) The Insured is not the owner of the manufactured housing unit.
   (d) Any lien is attached to the manufactured housing unit as personal property, including
      (i) a federal, state, or other governmental tax lien,
      (ii) UCC security interest,
      (iii) a motor vehicular lien, or
      (iv) other personal property lien.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

By: ______________________________________
   Authorized Signatory
ENDORSEMENT

Attached to Policy No.

Issued by

BLANK TITLE INSURANCE COMPANY

The Company insures the owner of the indebtedness secured by the insured mortgage against loss or damage sustained by reason of:

1. The existence at Date of Policy of any of the following:
   a. Covenants, conditions, or restrictions under which the lien of the insured mortgage can be divested, subordinated, or extinguished, or its validity, priority or enforceability impaired.
   b. Unless expressly excepted in Schedule B
      i. Present violations on the land of any enforceable covenants, conditions, or restrictions, or existing improvements on the land that violate any building setback lines shown on a plat of subdivision recorded or filed in the public records.
      ii. Any instrument referred to in Schedule B as containing covenants, conditions, or restrictions on the land that, in addition, (A) establishes an easement on the land, (B) provides a lien for liquidated damages, (C) provides for a private charge or assessment, (D) provides for an option to purchase, a right of first refusal, or the prior approval of a future purchaser or occupant.
      iii. Any encroachment of existing improvements located on the land onto adjoining land, or any encroachment onto the land of existing improvements located on adjoining land.
      iv. Any encroachment of existing improvements located on the land onto that portion of the land subject to any easement excepted in Schedule B.
      v. Any notices of violation of covenants, conditions, or restrictions relating to environmental protection recorded or filed in the public records.

2. Any future violation on the land of any existing covenants, conditions, or restrictions occurring prior to the acquisition of title by the insured, provided the violation results in:
   (a) invalidity, loss of priority, or unenforceability of the lien of the insured mortgage; or
   (b) loss of title if the insured shall acquire title in satisfaction of the indebtedness.

3. Damage to existing improvements, including lawns, shrubbery, or trees, located or encroaching on that portion of the land subject to any easement excepted in Schedule B, which damage results from the exercise of the right to maintain the easement for the purpose for which it was granted or reserved.

4. Damage to improvements, including lawns, shrubbery, or trees, located on the land on or after Date of Policy resulting from the future exercise of any right to use the surface of the land for the extraction or development of minerals excepted from the description of the land or excepted in Schedule B.

5. Any final court order or judgment requiring the removal from any land adjoining the land of any encroachment excepted in Schedule B.

6. Any final court order or judgment denying the right to maintain any existing improvements on the land because of any violation of covenants, conditions, or restrictions, or building setback lines shown on a plat of subdivision recorded or filed in the public records.

Wherever in this endorsement the words “covenants, conditions, or restrictions” appear, they do not include the terms, covenants, conditions, or limitations contained in an instrument creating a lease.

As used in paragraphs 1.b.i. and 6, the words “covenants, conditions or restrictions” do not include any covenants, conditions, or restrictions (a) relating to obligations of any type to perform maintenance, repair or remediation on the land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the land has been recorded or filed in the public records at Date of Policy and is not excepted in Schedule B.
This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[ Witness clause optional ]

**BLANK TITLE INSURANCE COMPANY**

By: ______________________________________

Authorized Signatory
ENDORSEMENT
Attached to Policy No.
Issued by

BLANK TITLE INSURANCE COMPANY

The Company insures the owner of the Indebtedness secured by the Insured Mortgage against loss or damage sustained by reason of:

1. The existence at Date of Policy of any of the following:
   a. Covenants, conditions, or restrictions under which the lien of the Insured Mortgage can be divested, subordinated, or extinguished or its validity, priority, or enforceability impaired.
   b. Unless expressly excepted in Schedule B
      i. Present violations on the Land of any enforceable covenants, conditions, or restrictions, or existing improvements on the Land that violate any building setback lines shown on a plat of subdivision recorded or filed in the Public Records.
      ii. Any instrument referred to in Schedule B as containing covenants, conditions, or restrictions on the Land that, in addition, (A) establishes an easement on the Land, (B) provides a lien for liquidated damages, (C) provides for a private charge or assessment, (D) provides for an option to purchase, a right of first refusal, or the prior approval of a future purchaser or occupant.
      iii. Any encroachment of existing improvements located on the Land onto adjoining land or any encroachment onto the Land of existing improvements located on adjoining land.
      iv. Any encroachment of existing improvements located on the Land onto that portion of the Land subject to any easement excepted in Schedule B.
      v. Any notices of violation of covenants, conditions, or restrictions relating to environmental protection recorded or filed in the Public Records.

2. Any future violation on the Land of any existing covenants, conditions, or restrictions occurring prior to the acquisition of Title by the Insured, provided the violation results in:
   a. invalidity, loss of priority, or unenforceability of the lien of the Insured Mortgage; or
   b. loss of Title if the Insured shall acquire Title in satisfaction of the Indebtedness.

3. Damage to existing improvements, including lawns, shrubbery, or trees, located or encroaching on that portion of the Land subject to any easement excepted in Schedule B, which damage results from the exercise of the right to maintain the easement for the purpose for which it was granted or reserved.

4. Damage to improvements, including lawns, shrubbery, or trees, located on the Land on or after Date of Policy resulting from the future exercise of any right to use the surface of the Land for the extraction or development of minerals excepted from the description of the Land or excepted in Schedule B.

5. Any final court order or judgment requiring the removal from any land adjoining the Land of any encroachment excepted in Schedule B.

6. Any final court order or judgment denying the right to maintain any existing improvements on the Land because of any violation of covenants, conditions, or restrictions, or building setback lines shown on a plat of subdivision recorded or filed in the Public Records.

Wherever in this endorsement the words “covenants, conditions, or restrictions” appear, they do not include the terms, covenants, conditions, or limitations contained in an instrument creating a lease.

As used in paragraphs 1.b.i. and 6, the words “covenants, conditions, or restrictions” do not include any covenants, conditions, or restrictions (a) relating to obligations of any type to perform maintenance, repair, or remediation on the Land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the Land has been recorded or filed in the Public Records at Date of Policy and is not excepted in Schedule B.
This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

By: ________________________________

Authorized Signatory
American Land Title Association

Endorsement 9.4 (Restrictions, Encroachments, Minerals - Owner's Policy – Unimproved Land)
Adopted 06/17/06

ENDORSEMENT
Attached to Policy No.
Issued by
BLANK TITLE INSURANCE COMPANY

The Company insures against loss or damage sustained by the insured by reason of:

1. The existence, at Date of Policy, of any of the following unless expressly excepted in Schedule B:
   a. Present violations on the land of any enforceable covenants, conditions, or restrictions.
   b. Any instrument referred to in Schedule B as containing covenants, conditions, or restrictions on the land that, in addition, (i) establishes an easement on the land, (ii) provides for an option to purchase, a right of first refusal, or the prior approval of a future purchaser or occupant, or (iii) provides a right of reentry, possibility of reverter, or right of forfeiture because of violations on the land of any enforceable covenants, conditions, or restrictions.
   c. Any encroachment onto the land of existing improvements located on adjoining land.
   d. Any notices of violation of covenants, conditions, or restrictions relating to environmental protection recorded or filed in the public records.

2. Damage to improvements (excluding lawn, shrubbery, or trees) constructed on the land after Date of Policy resulting from the future exercise of any right existing at Date of Policy to use the surface of the land for the extraction or development of minerals excepted from the description of the land or excepted in Schedule B.

Wherever in this endorsement the words "covenants, conditions, or restrictions" appear, they do not include the terms, covenants, conditions, or limitations contained in an instrument creating a lease.

As used in paragraphs 1.a., the words "covenants, conditions, or restrictions" do not include any covenants, conditions, or restrictions (a) relating to obligations of any type to perform maintenance, repair, or remediation on the land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the land has been recorded or filed in the public records at Date of Policy and is not excepted in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

By: ______________________________________

Authorized Signatory

by James Gosdin
4/9/2007 4:39 PM

September 2006
The 2006 Policies
ENDORSEMENT
Attached to Policy No.
Issued by

BLANK TITLE INSURANCE COMPANY

The Company insures against loss or damage sustained by the Insured by reason of:

1. The existence, at Date of Policy, of any of the following unless expressly excepted in Schedule B:
   a. Present violations on the Land of any enforceable covenants, conditions, or restrictions.
   b. Any instrument referred to in Schedule B as containing covenants, conditions, or restrictions on the Land that, in addition, (i) establishes an easement on the Land, (ii) provides for an option to purchase, a right of first refusal, or the prior approval of a future purchaser or occupant, or (iii) provides a right of reentry, possibility of reverter, or right of forfeiture because of violations on the Land of any enforceable covenants, conditions, or restrictions.
   c. Any encroachment onto the Land of existing improvements located on adjoining land.
   d. Any notices of violation of covenants, conditions, or restrictions relating to environmental protection recorded or filed in the Public Records.

2. Damage to improvements (excluding lawn, shrubbery, or trees) constructed on the Land after Date of Policy resulting from the future exercise of any right existing at Date of Policy to use the surface of the Land for the extraction or development of minerals excepted from the description of the Land or excepted in Schedule B.

Wherever in this endorsement the words "covenants, conditions, or restrictions" appear, they do not include the terms, covenants, conditions, or limitations contained in an instrument creating a lease.

As used in paragraphs 1.a., the words "covenants, conditions, or restrictions" do not include any covenants, conditions, or restrictions (a) relating to obligations of any type to perform maintenance, repair, or remediation on the Land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the Land has been recorded or filed in the Public Records at Date of Policy and is not excepted in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY
By: __________________________
Authorized Signatory
American Land Title Association

Endorsement 9.5 (Restrictions, Encroachments, Minerals - Owner’s Policy – Improved Land)
Adopted 06/17/06

EXHIBIT 9

ENDORSEMENT
Attached to Policy No.
Issued by

BLANK TITLE INSURANCE COMPANY

The Company insures against loss or damage sustained by the insured by reason of:

1. The existence, at Date of Policy, of any of the following unless expressly excepted in Schedule B:
   a. Present violations on the land of any enforceable covenants, conditions, or restrictions, or any existing improvements on the land which violate any building setback lines shown on a plat of subdivision recorded or filed in the public records.
   b. Any instrument referred to in Schedule B as containing covenants, conditions, or restrictions on the land that, in addition, (i) establishes an easement on the land, (ii) provides for an option to purchase, a right of first refusal, or the prior approval of a future purchaser or occupant, or (iii) provides a right of reentry, possibility of reverter, or right of forfeiture because of violations on the land of any enforceable covenants, conditions, or restrictions.
   c. Any encroachment of existing improvements located on the land onto adjoining land, or any encroachment onto the land of existing improvements located on adjoining land.
   d. Any encroachment of existing improvements located on the land onto that portion of the land subject to any easement excepted in Schedule B.
   e. Any notices of violation of covenants, conditions, or restrictions relating to environmental protection recorded or filed in the public records.

2. Damage to existing buildings that are located on or encroach upon that portion of the land subject to any easement excepted in Schedule B, which damage results from the exercise of the right to maintain the easement for the purpose for which it was granted or reserved.

3. Damage to improvements (excluding lawns, shrubbery, or trees), located on the land on or after Date of Policy resulting from the future exercise of any right existing at Date of Policy to use the surface of the land for the extraction or development of minerals excepted from the description of the land or excepted in Schedule B.

4. Any final court order or judgment requiring the removal from any land adjoining the land of any encroachment, other than fences, landscaping, or driveways, excepted in Schedule B.

5. Any final court order or judgment denying the right to maintain any existing building on the land because of any violation of covenants, conditions, or restrictions, or buildings setback lines shown on a plat of subdivision recorded or filed in the public records.

Wherever in this endorsement the words “covenants, conditions, or restrictions” appear, they do not include the terms, covenants, conditions, or limitations contained in an instrument creating a lease.

As used in paragraphs 1.a. and 5, the words “covenants, conditions, or restrictions” do not include any covenants, conditions, or restrictions (a) relating to obligations of any type to perform maintenance, repair, or remediation on the land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the land has been recorded or filed in the public records at Date of Policy and is not excepted in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY
By: ____________________________

Authorized Signatory
ENDORSEMENT

Attached to Policy No.

Issued by

BLANK TITLE INSURANCE COMPANY

The Company insures against loss or damage sustained by the Insured by reason of:

1. The existence, at Date of Policy, of any of the following unless expressly excepted in Schedule B:
   a. Present violations on the Land of any enforceable covenants, conditions, or restrictions, or any existing improvements on the Land that violate any building setback lines shown on a plat of subdivision recorded or filed in the Public Records.
   b. Any instrument referred to in Schedule B as containing covenants, conditions, or restrictions on the Land that, in addition, (i) establishes an easement on the Land, (ii) provides for an option to purchase, a right of first refusal, or the prior approval of a future purchaser or occupant, or (iii) provides a right of reentry, possibility of reverter, or right of forfeiture because of violations on the Land of any enforceable covenants, conditions, or restrictions.
   c. Any encroachment of existing improvements located on the Land onto adjoining land, or any encroachment onto the Land of existing improvements located on adjoining land.
   d. Any encroachment of existing improvements located on the Land onto that portion of the Land subject to any easement excepted in Schedule B.
   e. Any notices of violation of covenants, conditions, or restrictions relating to environmental protection recorded or filed in the Public Records.

2. Damage to existing buildings that are located on or encroach upon that portion of the Land subject to any easement excepted in Schedule B, which damage results from the exercise of the right to maintain the easement for the purpose for which it was granted or reserved.

3. Damage to improvements (excluding lawns, shrubbery, or trees) located on the Land on or after Date of Policy resulting from the future exercise of any right existing at Date of Policy to use the surface of the Land for the extraction or development of minerals excepted from the description of the Land or excepted in Schedule B.

4. Any final court order or judgment requiring the removal from any land adjoining the Land of any encroachment, other than fences, landscaping, or driveways, excepted in Schedule B.

5. Any final court order or judgment denying the right to maintain any existing building on the Land because of any violation of covenants, conditions, or restrictions, or building setback lines shown on a plat of subdivision recorded or filed in the Public Records.

Wherever in this endorsement the words “covenants, conditions, or restrictions” appear, they do not include the terms, covenants, conditions, or limitations contained in an instrument creating a lease.

As used in paragraphs 1.a. and 5, the words “covenants, conditions, or restrictions” do not include any covenants, conditions, or restrictions (a) relating to obligations of any type to perform maintenance, repair, or remediation on the Land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the Land has been recorded or filed in the Public Records at Date of Policy and is not excepted in Schedule B.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

By: ______________________________________

Authorized Signatory
EXHIBIT 10

American Land Title Association Endorsement 14.3 (Future Advance - Reverse Mortgage)
Adopted 6/17/06
ALTA Loan Policy

ENDORESMENT
Attached to Policy No.
Issued by

BLANK TITLE INSURANCE COMPANY

1. The insurance for Advances added by Sections 2 and 3 of this endorsement is subject to the exclusions in Section 4 of this endorsement and the Exclusions in the policy, except Exclusion 3(d), the provisions of the Conditions and Stipulations and the Exceptions contained in Schedule B.
   a. “Agreement,” as used in this endorsement, shall mean the note or loan agreement secured by the insured mortgage.
   b. “Advances,” as used in this endorsement, shall mean only those advances of principal indebtedness made after the Date of Policy as provided in the Agreement, including expenses of foreclosure, amounts advanced pursuant to the insured mortgage to pay taxes and insurance, assure compliance with laws, or to protect the lien of the insured mortgage before the time of acquisition of the estate or interest in the land, and reasonable amounts expended to prevent deterioration of improvements, together with interest on those advances.

2. The Company insures against loss or damage sustained by the insured by reason of:
   a. The invalidity or unenforceability of the lien of the insured mortgage as security for each Advance.
   b. The lack of priority of the lien of the insured mortgage as security for each Advance over any lien or encumbrance on the title.
   c. The invalidity or unenforceability or loss of priority of the lien of the insured mortgage as security for the unpaid indebtedness and Advances resulting from (i) re-Advances and repayments of indebtedness, (ii) lack of outstanding indebtedness before an Advance, (iii) failure to comply with the requirements of state law to secure Advances, (iv) failure of the insured mortgage to state the term for Advances, or (v) failure of the insured mortgage to state the maximum amount secured by the insured mortgage.
   d. The failure of the mortgagors to be at least 62 years of age at Date of Policy.

3. The Company also insures against loss or damage as a result of:
   a. The invalidity or unenforceability of the lien of the insured mortgage resulting from any provisions of the Agreement that provide for (i) interest on interest, (ii) changes in the rate of interest, or (iii) the addition of unpaid interest to the principal portion of the Indebtedness.
   b. Loss of priority of the lien of the insured mortgage as security for the principal indebtedness, including any unpaid interest which was added to principal in accordance with any provisions of the Agreement, interest on interest, or interest as changed in accordance with the provisions of the insured mortgage, which loss of priority is caused by (i) changes in the rate of interest, (ii) interest on interest, or (iii) increases in the unpaid principal indebtedness resulting from the addition of unpaid interest.

   “Changes in the rate of interest,” as used in this endorsement, shall mean only those changes in the rate of interest calculated pursuant to a formula provided in the insured mortgage at Date of Policy.

   “Interest,” as used in this endorsement, shall include lawful additional interest based on net appreciated value.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:
   a. Advances made after a Petition for Relief under the Bankruptcy Code (11 U.S.C.) has been filed by or on behalf of the mortgagor.
   b. The loss of priority of Advances to real estate taxes or assessments imposed on the land by governmental authority arising after Date of Policy.
c. The loss of priority to a federal tax lien of any Advance made more than forty-five days after a notice of federal tax lien has been filed in the public records.

d. The loss of priority of Advances to any federal or state environmental protection lien.

e. Usury, or any consumer credit protection or truth-in-lending law.

f. [The loss of priority of an Advance to a mechanic’s or materialmen’s lien.]

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the amount of insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]
1. The insurance for Advances added by Sections 2 and 3 of this endorsement is subject to the exclusions in Section 4 of this endorsement and the Exclusions in the Policy, except Exclusion 3(d), the provisions of the Conditions and the Exceptions contained in Schedule B.

   a. “Agreement,” as used in this endorsement, shall mean the note or loan agreement secured by the Insured Mortgage.

   b. “Advances,” as used in this endorsement, shall mean only those advances of principal indebtedness made after the Date of Policy as provided in the Agreement, including expenses of foreclosure, amounts advanced pursuant to the Insured Mortgage to pay taxes and insurance, assure compliance with laws, or to protect the lien of the Insured Mortgage before the time of acquisition of the Title, and reasonable amounts expended to prevent deterioration of improvements, together with interest on those advances.

2. The Company insures against loss or damage sustained by the Insured by reason of:

   a. The invalidity or unenforceability of the lien of the Insured Mortgage as security for each Advance.

   b. The lack of priority of the lien of the Insured Mortgage as security for each Advance over any lien or encumbrance on the Title.

   c. The invalidity or unenforceability or loss of priority of the lien of the Insured Mortgage as security for the Indebtedness and Advances resulting from (i) re-Advances and repayments of Indebtedness, (ii) lack of outstanding Indebtedness before an Advance, (iii) failure to comply with the requirements of state law to secure Advances, (iv) failure of the Insured Mortgage to state the term for Advances, or (v) failure of the Insured Mortgage to state the maximum amount secured by the Insured Mortgage.

   d. The failure of the mortgagors to be at least 62 years of age at Date of Policy.

3. The Company also insures against loss or damage sustained by the Insured by reason of:

   a. The invalidity or unenforceability of the lien of the Insured Mortgage resulting from any provisions of the Agreement that provide for (i) interest on interest, (ii) changes in the rate of interest, or (iii) the addition of unpaid interest to the principal portion of the Indebtedness.

   b. Loss of priority of the lien of the Insured Mortgage as security for the Indebtedness, including any unpaid interest that was added to principal in accordance with any provisions of the Agreement, interest on interest, or interest as changed in accordance with the provisions of the Insured Mortgage, which loss of priority is caused by (i) changes in the rate of interest, (ii) interest on interest, or (iii) increases in the Indebtedness resulting from the addition of unpaid interest.

   “Changes in the rate of interest,” as used in this endorsement, shall mean only those changes in the rate of interest calculated pursuant to a formula provided in the Insured Mortgage at Date of Policy.

   “Interest,” as used in this endorsement, shall include lawful additional interest based on net appreciated value.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:

   a. Advances made after a Petition for Relief under the Bankruptcy Code (11 U.S.C.) has been filed by or on behalf of the mortgagor.

   b. The loss of priority of the lien of the Insured Mortgage, as security for Advances, to the lien of real estate taxes or assessments on the Title imposed by governmental authority arising after Date of Policy.

   c. The loss of priority of the lien of the Insured Mortgage as security for any Advance, to a federal tax lien, which Advance is made after the earlier of (i) actual knowledge of the Insured that a federal tax lien was filed against the mortgagor, or (ii) the expiration of more than forty-five days after notice of a federal tax lien filed against the mortgagor.

   d. The loss of priority of the lien of the Insured Mortgage as security for Advances to any federal or state environmental protection lien.
e. Usury, or any consumer credit protection or truth-in-lending law.

[f. The loss of priority of the lien of the Insured Mortgage as security for any Advance to a mechanic’s or materialmen’s lien.]

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

By: ______________________________________

Authorized Signatory
EXHIBIT 11

American Land Title Association

Endorsement 22 (Location)
Adopted 6/17/06
ALTA Owner’s/Loan Policy

ENDORSEMENT
Attached to Policy No.
Issued by

BLANK TITLE INSURANCE COMPANY

The Company insures against loss or damage sustained by the insured by reason of the failure of a (description of improvement), known as (street address), to be located on the land at Date of Policy.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY
By: ______________________________________
Authorized Signatory
ENDORSEMENT
Attached to Policy No.
Issued by

BLANK TITLE INSURANCE COMPANY

The Company insures against loss or damage sustained by the Insured by reason of the failure of a (description of improvement), known as (street address), to be located on the Land at Date of Policy.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[ Witness clause optional ]

BLANK TITLE INSURANCE COMPANY
By: __________________________
Authorized Signatory
EXHIBIT 12

American Land Title Association

Endorsement 22.1 (Location and Map)
Adopted 6/17/06
ALTA Owner's/Loan Policy

ENDORSEMENT
Attached to Policy No.
Issued by

BLANK TITLE INSURANCE COMPANY

The Company insures against loss or damage sustained by the insured by reason of the failure of (i) a (description of improvement), known as (street address), to be located on the land at Date of Policy, or (ii) the map, if any, attached to this policy to correctly show the location and dimensions of the land according to the public records.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY
By:
Authorized Signatory
ENDORSEMENT
Attached to Policy No.
Issued by

BLANK TITLE INSURANCE COMPANY

The Company insures against loss or damage sustained by the Insured by reason of the failure of (i) a (description of improvement), known as (street address), to be located on the Land at Date of Policy, or (ii) the map, if any, attached to this policy to correctly show the location and dimensions of the Land according to the Public Records.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

[Witness clause optional]

BLANK TITLE INSURANCE COMPANY

By: __________________________

Authorized Signatory
American Land Title Association

Short Form Residential Loan Policy

Adopted 6/17/06

Section II-

EXHIBIT 13

American Land Title Association

SHORT FORM RESIDENTIAL LOAN POLICY

ONE-TO-FOUR FAMILY

Issued by

Blank Title Insurance Company

SCHEDULE A

Name and Address of Title Insurance Company:

[File No.: ]
Policy No.:
Loan No.:
Address Reference: Street Address:
County and State:

Amount of Insurance: $ [Premium: $ ]
Mortgage Amount: $ Mortgage Date:
Date of Policy: [at a.m./p.m.]
Name of Insured:
Name of Borrower(s):

The estate or interest in the Land identified in this Schedule A and which is encumbered by the Insured Mortgage is fee simple and is, at Date of Policy, vested in the borrower(s) shown in the Insured Mortgage and named above.

The Land referred to in this policy is described as set forth in the Insured Mortgage.

This policy consists of [one] page(s), [including its reverse side,] unless an addendum is attached and indicated below:

Addendum attached

Subject to the conditions stated in the endorsement list below, the following ALTA endorsements are incorporated in this policy:

ALTA ENDORSEMENT 4.1-06 (Condominium), if the Land or estate or interest is referred to in the Insured Mortgage as a condominium.

ALTA ENDORSEMENT 5.1-06 (Planned Unit Development)

ALTA ENDORSEMENT 6-06 (Variable Rate), if the Insured Mortgage contains provisions which provide for an adjustable interest rate.

ALTA ENDORSEMENT 6.2-06 (Variable Rate-Negative Amortization), if the Insured Mortgage contains provisions which provide for both an adjustable interest rate and negative amortization.
ALTA ENDORSEMENT 7-06 (Manufactured Housing), if a manufactured housing unit is located on the Land at Date of Policy.

ALTA ENDORSEMENT 8.1-06 (Environmental Protection Lien) – Paragraph b refers to the following state statute(s):

ALTA ENDORSEMENT 9-06 (Restrictions, Encroachments, Minerals)

The endorsements checked below, if any, are incorporated in this policy:

☐ ALTA ENDORSEMENT 4-06 (Condominium)
☐ ALTA ENDORSEMENT 5-06 (Planned Unit Development)
☐ ALTA ENDORSEMENT 7.1-06 (Manufactured Housing – Conversion; Loan)
☐ ALTA ENDORSEMENT 14-06 (Future Advance – Priority)
☐ ALTA ENDORSEMENT 14.1-06 (Future Advance – Knowledge)
☐ ALTA ENDORSEMENT 14.3-06 (Future Advance - Reverse Mortgage)
☐ ALTA ENDORSEMENT 22-06 (Location) The type of improvement is a one-to-four family residential structure and the street address is as shown above.

WITNESS CLAUSE OPTIOAL

BLANK TITLE INSURANCE COMPANY

BY: ______________________

PRESIDENT

SECRETARY

[BRACKETED MATERIAL OPTIONAL]

SUBJECT TO THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B BELOW, AND ANY ADDENDUM ATTACHED HERETO, BLANK TITLE INSURANCE COMPANY, A CORPORATION, HEREIN CALLED THE "COMPANY," HEREBY INSURES THE INSURED IN ACCORDANCE WITH AND SUBJECT TO THE TERMS, EXCLUSIONS AND CONDITIONS SET FORTH IN THE AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (6-17-06), ALL OF WHICH ARE INCORPORATED HEREIN. ALL REFERENCES TO SCHEDULES A AND B SHALL REFER TO SCHEDULES A AND B OF THIS POLICY.

SCHEDULE B

EXCEPTIONS FROM COVERAGE AND AFFIRMATIVE INSURANCES

Except to the extent of the affirmative insurance set forth below, this policy does not insure against loss or damage (and the Company will not pay costs, attorney’s fees, or expenses) which arise by reason of:
1. Covenants, conditions, or restrictions, if any, appearing in the Public Records; however, this policy insures against loss or damage arising from:

(a) the violation of those covenants, conditions, or restrictions on or prior to Date of Policy;
(b) a forfeiture or reversion of Title from a future violation of those covenants, conditions, or restrictions, including those relating to environmental protection; and
(c) provisions in those covenants, conditions, or restrictions, including those relating to environmental protection, under which the lien of the Insured Mortgage can be extinguished, subordinated, or impaired.

As used in paragraph 1(a), the words “covenants, conditions, or restrictions” do not refer to or include any covenant, condition, or restriction (a) relating to obligations of any type to perform maintenance, repair or remediation on the Land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the Land has been recorded or filed in the Public Records at Date of Policy and is not referenced in an addendum attached to this policy.

2. Any easements or servitudes appearing in the Public Records; however, this policy insures against loss or damage arising from (a) the encroachment, at Date of Policy, of the improvements on any easement, and (b) any interference with or damage to existing improvements, including lawns, shrubbery, and trees, resulting from the use of the easements for the purposes granted or reserved.

3. Any lease, grant, exception, or reservation of minerals or mineral rights appearing in the Public Records; however, this policy insures against loss or damage arising from (a) any affect on or impairment of the use of the Land for residential one-to-four family dwelling purposes by reason of such lease, grant, exception or reservation of minerals or mineral rights, and (b) any damage to existing improvements, including lawns, shrubbery, and trees, resulting from the future exercise of any right to use the surface of the Land for the extraction or development of the minerals or mineral rights so leased, granted, excepted, or reserved. Nothing herein shall insure against loss or damage resulting from subsidence.

NOTICES, WHERE SENT: Any notice of claim or other notice or statement in writing required to be given the Company under this policy must be given to the Company at the following address:

______________________________________________.
ADDENDUM

TO

SHORT FORM RESIDENTIAL LOAN POLICY

Addendum to Policy Number: _______________ [File Number: ________ ]

SCHEDULE B (Continued)

IN ADDITION TO THE MATTERS SET FORTH ON SCHEDULE B OF THE POLICY TO WHICH THIS ADDENDUM IS ATTACHED, THIS POLICY DOES NOT INSURE AGAINST LOSS OR DAMAGE (AND THE COMPANY WILL NOT PAY COSTS, ATTORNEYS’ FEES OR EXPENSES) THAT ARISE BY REASON OF THE FOLLOWING: