

DEEP DIVE SERIES:

# 2021 ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICIES

---

April 14, 2021

**THIS MATERIAL IS PROVIDED SOLELY FOR EDUCATIONAL  
PURPOSES . IT IS NOT INTENDED AS LEGAL ADVICE AND  
SHOULD NOT BE RELIED UPON BY ANYONE OBTAINING A COPY  
OF THIS MATERIAL FOR THAT PURPOSE.**



## JAMES L. (JIM) GOSDIN

Senior Vice President

Chief Underwriting Counsel—All Underwriters

Associate General Counsel

*Stewart Title Guaranty Company*

[jgosdin@stewart.com](mailto:jgosdin@stewart.com)

## MARSHA D. LANER

Senior Vice President

Regional Underwriting Counsel—Midwestern States

Senior Underwriter

*Stewart Title Guaranty Company*

[mlaner@stewart.com](mailto:mlaner@stewart.com)

## LISA S. DELVECCHIO

Senior Underwriter

*Stewart Title Guaranty Company*

[lisa.delvecchio@stewart.com](mailto:lisa.delvecchio@stewart.com)



# OVERVIEW

- **WHAT WILL CHANGE IN THE EXPANDED COVERAGE RESIDENTIAL LOAN POLICIES?**
- **OTHER ALTA FORMS IMPACTED**
- **HOW CAN YOU PREPARE?**



# WHAT WILL CHANGE IN THE EXPANDED COVERAGE RESIDENTIAL LOAN POLICIES?

---

# INTRODUCTION

**ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY  
OF TITLE INSURANCE—[ASSESSMENTS PRIORITY][CURRENT ASSESSMENTS]  
FOR ONE-TO-FOUR FAMILY RESIDENTIAL PROPERTY  
Issued by  
BLANK TITLE INSURANCE COMPANY**

**This policy, when issued by the Company with a Policy Number and the Date of Policy, is valid even if this policy or any endorsement to this policy is issued electronically or lacks any signature.**

**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~~, Condition 16.**

# COVERED RISKS

## 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 the Date of Policy and, to the extent stated in Covered Risks 10, ~~11, 15,~~ 16, 17, 18, 19, 20, 21, 22, 23, ~~24, 26, and~~ 27, ~~and 28,~~ after the Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

## ~~COVERED RISKS~~

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

# COVERED RISKS

2. Any defect in or lien or encumbrance on the Title. ~~This~~ Covered Risk 2 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)~~ the failure of ~~any~~ any person or Entity to have authorized a transfer or conveyance;
    - ~~(iii)~~ a document affecting the Title not properly authorized, created, executed, witnessed, sealed, acknowledged, notarized, (including by remote online notarization), or delivered;
    - ~~(iv)~~ a 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 the failure to ~~perform~~ have performed those acts by electronic means authorized by law; ~~or~~
    - ~~(vii)~~ a defective judicial or administrative proceeding; or
    - viii. the repudiation of an electronic signature by a person that executed a document because the electronic signature on the document was not valid under applicable electronic transactions law.
  - ~~(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~~, the effect on the Title of an encumbrance, violation, variation, ~~or~~ adverse circumstance ~~affecting the Title that~~, boundary line overlap, or encroachment (including an encroachment of an improvement across the boundary lines of the Land), but only if the encumbrance, violation, variation, adverse circumstance, boundary line overlap, or encroachment would be have been disclosed by an accurate and complete land title 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.~~

# COVERED RISKS

3. Unmarketable Title.
4. ~~No right of~~ Lack of actual vehicular and pedestrian access to and from the Land, based on a legal right.
5. ~~The~~ A violation or enforcement of ~~any~~ a law, ordinance, permit, or governmental regulation (including those relating to building and zoning), but only to the extent of the violation or enforcement described by the enforcing governmental authority in an Enforcement Notice that identifies a restrictioning, regulationing, or prohibitioning, or relating to:
  - ~~(a)~~ (a) the occupancy, use, or enjoyment of the Land;
  - ~~(b)~~ (b) the character, dimensions, or location of any ~~improvement erected~~ improvement on the Land;
  - ~~(c)~~ (c) the subdivision of ~~land~~ the Land; or
  - ~~(d)~~ (d) environmental remediation or protection, on the Land.~~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 forfeiture, police, regulatory, or national security 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 described by the enforcing governmental authority referred to in that notice an Enforcement Notice.



# COVERED RISKS

7. ~~The~~ An exercise of the ~~rights~~ power of eminent domain, but only to the extent:
- ~~a.~~ if a notice of the exercise described in an Enforcement Notice, ~~describing any part of the Land, is recorded in the Public Records;~~ or
  - ~~b.~~ Any the taking ~~by a governmental body that has~~ occurred and is binding on ~~the rights of~~ a purchaser for value without Knowledge.
98. The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title. ~~This~~ Covered Risk 98 includes, but is not limited to, insurance against loss ~~from any of the following impairing the lien of the Insured Mortgage~~ caused by:
- ~~(a).~~ forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
  - ~~(b).~~ the failure of ~~any~~ a person or Entity to have authorized a transfer or conveyance;
  - ~~(c).~~ the Insured Mortgage not being properly authorized, created, executed, witnessed, sealed, acknowledged, notarized (including by remote online notarization), or delivered;
  - ~~(d).~~ a failure to perform those acts necessary to create ~~a document~~ an Insured Mortgage by electronic means authorized by law;
  - ~~(e).~~ a document having been executed under a falsified, expired, or otherwise invalid power of attorney;
  - ~~(f).~~ ~~a document not~~ the Insured Mortgage not having been properly filed, recorded, or indexed in the Public Records, including the failure to ~~perform~~ have performed those acts by electronic means authorized by law; ~~or~~
  - ~~(g).~~ a defective judicial or administrative proceeding; or
  - h. invalidity or unenforceability of the lien of the Insured Mortgage as a result of the repudiation of an electronic signature by a person that executed the Insured Mortgage because the electronic signature on the Insured Mortgage was not valid under applicable electronic transactions law.

# COVERED RISKS

~~409~~. The lack of priority of the lien of the Insured Mortgage upon the Title over any other lien or encumbrance.

~~410~~. The lack of priority of the lien of the Insured Mortgage upon the Title:

~~(a)~~ 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, or equipment 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 the Date of Policy; or

~~(ii)~~ contracted for, commenced, or continued after the 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 the Date of Policy to advance;

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

~~(c)~~ over any defect in or lien or encumbrance on the Title attaching or created before, on, or after the Date of Policy; as to each and every advance of proceeds of the loan secured by the Insured Mortgage, which at the Date of Policy the Insured has made or is legally obligated to make; ~~and~~

~~(d) over any environmental protection lien that comes into existence before, on or after Date of Policy pursuant to any federal statute in effect at Date of Policy as to each and every advance of proceeds of the loan secured by the Insured Mortgage, which at Date of Policy the Insured has made or is legally obligated to make.~~

~~4211~~. 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.

# COVERED RISKS

## ~~43~~12. The failure of the Land:

- ~~(a)~~(a) to have the ~~street address~~ Property Address shown in Schedule A, and the failure of the map, if any, attached to this policy to show the correct location and dimensions of the Land according to the Public Records.
- ~~(b)~~(b) to be improved with a one-to-four family residential structure or, if stated in the description of the Land, a residential condominium unit.
- ~~(c)~~(c) to be zoned by State or Municipal zoning law or State or Municipal zoning regulation to permit a one-to-four family residential structure or, if stated in the description of the Land, a residential condominium unit.
- ~~(d)~~(d) to be a lawfully created one-to-four family residential parcel according to ~~state statutes and local ordinances governing~~ State or Municipal subdivision ~~of land~~ law or State or Municipal subdivision regulation.

## ~~44~~13. The forced removal, modification, or replacement of any existing one-to-four family residential structure or residential condominium unit located on the Land resulting from the violation of any of the following requirements of any applicable State or Municipal zoning law or State or Municipal zoning regulation ~~zoning ordinance~~:

- a. area or dimensions of the Land as a building site;
- b. floor space area of the structure;
- c. height of the structure; or
- d. distance of the structure from the boundary lines of the Land.

## ~~45~~14. The assessment or taxation of the Land by a governmental authority as part of a larger parcel.

# COVERED RISKS

- ~~16~~15. The failure of the existing one-to-four family residential structure or residential condominium unit or a portion of it, or ~~a~~ future modification or replacement, to ~~have been~~be constructed with a valid building permit from the appropriate ~~local government issuing office or agency~~Municipal authority.
- ~~17~~16. The inability to use the existing one-to-four family residential structure or residential condominium unit or a portion of it, or ~~a~~ future modification or replacement ~~to it~~, for one-to-four family residential purposes, because that use violates a restriction ~~shown~~identified in Schedule B.
- ~~18~~17. Damage to any improvements, lawns, shrubbery, or trees constructed or planted on the Land before, on, or after the Date of Policy resulting from the future exercise of ~~any~~the right to use the surface of the Land for the extraction or development of oil, gas, minerals, groundwater, or any other subsurface substance.
- ~~19~~18. The encroachment ~~onto the Land~~ of an improvement constructed after the Date of Policy onto the Land.
- ~~20~~19. The encroachment of an improvements constructed on the Land after the Date of Policy onto adjoining property or over any easement or building setback line on the Land.
- ~~21~~20. Forgery after the Date of Policy of any instrument purporting to:
- (a). ~~any instrument purporting to~~ subordinate, assign, release, or reconvey the Insured Mortgage; ~~and~~or
  - (b). ~~any instrument purporting to~~ convey or encumber the Title.

# COVERED RISKS

- ~~22~~21. The invalidity, unenforceability, or lack of priority of the lien of the Insured Mortgage as to Advances made or changes in the rate of interest charged subsequent to any modification of the terms of the Insured Mortgage made after the Date of Policy ~~which~~that are secured by the terms of the Insured Mortgage as modified.
- ~~23~~22. Damage to any improvements, lawns, shrubbery, or trees constructed or planted on the Land before, on, or after the Date of Policy ~~occasioned by~~resulting from the exercise of the right to use or maintain any easement ~~referred to~~identified in Schedule B.
- ~~24~~23. The ~~!~~interference with the use ~~for one-to-four family residential purposes~~ of ~~the~~ any improvements constructed on the Land before, on, or after the Date of Policy for one-to-four family residential purposes ~~occasioned by~~resulting from the exercise of the right to use or maintain any easement ~~referred to~~identified in Schedule B.
- ~~25~~24. Supplemental real estate taxes, including those caused by construction or ~~a~~ change of ownership or use, that occurred before the Date of Policy, not previously assessed against the Land ~~for any period~~ before the Date of Policy.
- ~~26~~25. The invalidity or unenforceability, in whole or in part, of the lien of the Insured Mortgage upon the Title based upon a violation of ~~the~~ usury laws of the ~~s~~State where the Land is located if no other Mortgage is ~~shown~~identified as an ~~e~~Exception in Schedule B.

# COVERED RISKS

- ~~27~~26. The invalidity, unenforceability, lack of priority, or avoidance of the lien of the Insured Mortgage upon the Title, or the effect of a court order providing an alternative remedy:
- ~~(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~~ Title to the Land or any interest in the Land occurring prior to the transaction creating the lien of the Insured Mortgage because that prior transfer constituted a:
    - i. a fraudulent conveyance, fraudulent transfer, or preferential transfer under federal bankruptcy, state insolvency, or similar state or federal creditors' rights laws; or
    - ii. voidable transfer under the Uniform Voidable Transactions Act; or
  - ~~(b)~~ because the Insured Mortgage constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar state or federal creditors' rights laws by reason of the failure ~~of its recording in the Public Records~~:
    - ~~(i)~~ to ~~be~~ timely record the Insured Mortgage in the Public Records after execution and delivery of the Insured Mortgage to the Insured; or
    - ~~(ii)~~ of the recording of the Insured Mortgage in the Public Records to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
- ~~28~~27. Any defect in or lien or encumbrance on the Title or other matter ~~insured against by this policy~~ included in Covered Risks 1 through 26 that has been created or attached or has been filed or recorded in the Public Records subsequent to the Date of Policy and prior to the recording of the Insured Mortgage in the Public Records.

# COVERED RISKS

## ASSESSMENTS PRIORITY:

28. Unless stated to the contrary in Schedule B, the Company incorporates the following American Land Title Association (ALTA) endorsements into this policy by this reference as if these endorsements ~~had been~~are attached to this policy
- ~~(a).~~ ALTA ~~Form 4~~[-06] ~~(Condominium—Assessments Priority)~~, if a condominium unit is referred to in the description of the Land;
  - ~~(b).~~ ALTA ~~Form 5~~[-06] ~~(Planned Unit Development—Assessments Priority)~~;
  - ~~(c).~~ ALTA ~~Form 6~~[-06] ~~(Variable Rate Mortgage)~~;
  - ~~(d).~~ ALTA ~~Form 6.2~~[-06] ~~(Variable Rate Mortgage—Negative Amortization)~~;
  - ~~(e).~~ ALTA ~~Form 8.1~~[-06] ~~(Environmental Protection Lien)~~, subject to the State statutes, if any, ~~shown~~identified in Schedule B specifically for this endorsement; ~~and~~
  - ~~(f).~~ ALTA ~~Form 9~~[-06] ~~(Restrictions, Encroachments, Minerals—Loan Policy)~~; and
  - g. ALTA 9.6[-06] Private Rights—Loan Policy.

## CURRENT ASSESSMENTS:

28. Unless stated to the contrary in Schedule B, the Company incorporates the following American Land Title Association (ALTA) endorsements into this policy by this reference as if these endorsements ~~had been~~are attached to this policy
- ~~(a).~~ ALTA ~~Form 4.1~~[-06] ~~(Condominium—Current Assessments)~~, if a condominium unit is referred to in the description of the Land;
  - ~~(b).~~ ALTA ~~Form 5.1~~[-06] ~~(Planned Unit Development—Current Assessments)~~;
  - ~~(c).~~ ALTA ~~Form 6~~[-06] ~~(Variable Rate Mortgage)~~;
  - ~~(d).~~ ALTA ~~Form 6.2~~[-06] ~~(Variable Rate Mortgage—Negative Amortization)~~;
  - ~~(e).~~ ALTA ~~Form 8.1~~[-06] ~~(Environmental Protection Lien)~~, subject to the State statutes, if any, ~~shown~~identified in Schedule B specifically for this endorsement; ~~and~~
  - f. ALTA 9.6.1[-06] Private Rights—Current Assessments—Loan Policy; and
  - ~~(f)g.~~ ALTA ~~Form 9.10~~[-06] ~~(Restrictions, Encroachments, Minerals—Current ~~Violations~~ Assessments—Loan Policy)~~.

# DEFENSE OF COVERED CLAIMS



## DEFENSE OF COVERED CLAIMS

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~~ Authorized Signatory]

BY: \_\_\_\_\_  
[~~SECRETARY~~ Authorized Signatory]



# EXCLUSIONS FROM COVERAGE



## 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 ~~which~~that arise by reason of:

1. ~~(a)~~(a) any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricting, regulatesing, prohibiting, or relatesing to:
  - ~~(i)~~(i) the occupancy, use, or enjoyment of the Land;
  - ~~(ii)~~(ii) the character, dimensions, or location of any improvement ~~erected~~ on the Land;
  - ~~(iii)~~(iii) the subdivision of land; or
  - ~~(iv)~~(iv) environmental remediation or 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, 6, 13(c), 13(d), 14, or 16.~~

~~(b)~~(b) any governmental forfeiture, police, regulatory, or national security power.

c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.

~~This~~ Exclusion 1 ~~(b)~~(b) does not modify or limit the coverage provided under Covered Risk 5, 6, ~~13(e)~~12.c., ~~13(d)~~12.d., ~~14~~13, or ~~16~~15.
2. ~~Rights~~Any power of eminent domain. ~~This~~ Exclusion 2 does not modify or limit the coverage provided under Covered Risk 7 ~~or 8~~.

# EXCLUSIONS FROM COVERAGE



3. Any ~~D~~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 the 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 the Date of Policy (~~however, this~~ Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 10, 11, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, and 27, or 28); or
  - ~~(e)~~ resulting in loss or damage that would not have been sustained if ~~the Insured Claimant~~ consideration sufficient to qualify the Insured named in Schedule A as a bona fide purchaser or encumbrancer had ~~paid value~~ been given for the Insured Mortgage at the Date of Policy.
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 law, or ~~any consumer credit protection or truth-in-lending law~~ Consumer Protection Law. ~~This~~ Exclusion 5 does not modify or limit the coverage provided in Covered Risk ~~26~~ 25.

# EXCLUSIONS FROM COVERAGE



6. Any claim of invalidity, unenforceability, or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the ~~estate or interest covered by this policy~~ Title. ~~This~~ Exclusion 6 does not modify or limit the coverage provided ~~in~~ under Covered Risk ~~11~~ 10.
- ~~7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion 7 does not modify or limit the coverage provided in Covered Risk 11(b) or 25.~~
- ~~8~~ 7. The failure of the residential structure, or any portion of it, to have been constructed before, on, or after the Date of Policy in accordance with applicable building codes. ~~This~~ Exclusion ~~8~~ 7 does not modify or limit the coverage provided in Covered Risk 5 or 6.
- ~~9~~ 8. 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)~~ a fraudulent conveyance or fraudulent transfer;
  - b. voidable transfer under the Uniform Voidable Transactions Act; or
  - ~~(b)~~ c. a preferential transfer:
    - i. to the extent the Insured Mortgage is not a transfer made as a contemporaneous exchange for new value;  
or
    - ii. for any other reason not stated in Covered Risk ~~26.b~~ 27(b) of this policy.

# EXCLUSIONS FROM COVERAGE



~~109~~. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake, or subsidence.

~~110~~. Negligence by a person or an Entity exercising a right to extract or develop oil, gas, minerals, groundwater, or any other subsurface substances.

11. Any lien on the Title for real estate taxes or assessments, imposed by a governmental authority and created or attaching between the Date of Policy and the date of recording of the Insured Mortgage in the Public Records. Exclusion 11 does not modify or limit the coverage provided under Covered Risk 10.b. or 24.

12. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.

# TRANSACTION IDENTIFICATION DATA



**[Transaction Identification Data, for which the Company assumes no liability as set forth in Condition 9.e.:**

Issuing Agent:

Issuing Office:

Issuing Office's ALTA® Registry ID:

Loan ID Number:

Issuing Office File Number:

Property Address:]

# SCHEDULE A

## SCHEDULE A

Name and Address of Title Insurance Company:

Policy Number: \_\_\_\_\_ ~~Loan Number:~~

~~[File Number: \_\_\_\_\_]~~

~~Street~~ Property Address of the Land:

~~Policy Amount~~ Amount of Insurance: \$ [Premium: \$ ]

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

1. ~~Name of~~ The Insured is:
2. The estate or interest in the Land ~~that is~~ encumbered by the Insured Mortgage is:
3. The Title encumbered by the Insured Mortgage 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:

# SCHEDULE B

## SCHEDULE B ~~PART I~~

Policy Number: \_\_\_\_\_ ~~Loan Number:~~  
~~{File Number: \_\_\_\_\_}~~

### EXCEPTIONS FROM COVERAGE

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This policy treats any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document are excepted 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~~ resulting from the terms and conditions of any lease or easement identified in Schedule A, and the following matters:

[1. The following ~~state~~State statutes, reference to which are made part of the ALTA 8.1 ~~[-06]~~ (Environmental Protection Lien) endorsement incorporated into this policy:]

(Insert Schedule B exceptions here)

# SCHEDULE B

[This policy does not insure against loss or damage and the Company will not pay costs, attorneys' fees, or expenses resulting from the terms and conditions of any lease or easement identified in Schedule A, and the following matters:

## PART I

[1. The following State statutes, reference to which are made part of the ALTA 8.1 [-06] Environmental Protection Lien endorsement incorporated into this policy:]

*(Insert Schedule B exceptions here)*

## ~~SCHEDULE B~~ 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:~~  
Covered Risk 10 insures against loss or damage sustained by the Insured by reason of the lack of priority of the lien of the Insured Mortgage over the matters listed in Part II, subject to the terms and conditions of any subordination provision in a matter listed in Part II:]



# CONDITIONS

## CONDITIONS

### 1. DEFINITION OF TERMS

~~The following terms when used in this policy mean:~~

In this policy, the following terms have the meanings given to them below. Any defined term includes both the singular and the plural, as the context requires:

~~(a)~~ a. “Advances”: Disbursements of Indebtedness made after the Date of Policy as provided by the Insured Mortgage.

b. “Affiliate”: An Entity:

i. that is wholly owned by the Insured;

ii. that wholly owns the Insured; or

iii. if that Entity and the Insured are both wholly owned by the same person or Entity.

~~(b)~~ c. “Amount of Insurance”: One hundred twenty-five percent (125%) of the ~~Policy Amount~~ Amount of Insurance stated in Schedule A, as may be increased by Condition 8.c.; decreased by Condition 10; or increased or decreased by endorsements to this policy, ~~increased by Subsection 8(b) or decreased by Section 10 of these Conditions.~~

d. “Consumer Protection Law”: Any law regulating trade, lending, credit, sale, and debt collection practices involving consumers; any consumer financial law; or any other law relating to truth-in-lending, predatory lending, or a borrower’s ability to repay a loan.

# CONDITIONS

- ~~(e)~~e. “Date of Policy”: The ~~date designated as~~ “Date of Policy” stated in Schedule A.
- f. “Discriminatory Covenant”: Any covenant, condition, restriction, or limitation that under applicable law illegally discriminates against a class of individuals based on personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or other legally protected class.
- g. “Enforcement Notice”: A document recorded in the Public Records that describes any part of the Land and:
  - i. is issued by a governmental agency that identifies a violation or enforcement of a law, ordinance, permit, or governmental regulation; or
  - ii. is issued by a holder of the power of eminent domain or a governmental agency that identifies the exercise of a governmental power.
- ~~(d)~~h. “Entity”: A corporation, partnership, trust, limited liability company, or other ~~similar legal~~ entity authorized by law to own title to real property in the State where the Land is located.
- i. “Government Mortgage Agency or Instrumentality”: Any government agency or instrumentality that is the owner of the Indebtedness, an insurer, or a guarantor under an insurance contract or guaranty insuring or guaranteeing the Indebtedness, or any part of it, whether named as an Insured or not.

# CONDITIONS

- (e)j. “Indebtedness”: ~~The~~ Any obligation secured by the Insured Mortgage, including ~~one~~ an obligation evidenced by electronic means authorized by law, ~~and if~~ that obligation is the payment of a debt, the Indebtedness is:
- i. the sum of:
- (~~ia~~) the amount of the principal disbursed as of the Date of Policy;
  - (~~ib~~) the amount of the principal disbursed subsequent to the Date of Policy;
  - (~~ic~~) the construction loan advances made subsequent to the 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 continues ed to be obligated to advance at the Date of Policy and at the date of the Aadvance;
  - (~~ivd~~) interest on the loan;
  - (~~ve~~) ~~the~~ prepayment premiums, exit fees, and other similar fees or penalties allowed by law;
  - (~~vif~~) ~~the~~ expenses of foreclosure and any other costs of enforcement;
  - (g) advances for insurance premiums;
  - (~~viih~~) ~~the amounts advanced~~ advances to assure compliance with laws ~~s~~ or to protect the ~~lien~~ validity, enforceability, or ~~the~~ priority of the lien of the Insured Mortgage before the acquisition of the estate or interest in the Title; including, but not limited to:
    - (1) real estate taxes and assessments imposed by a governmental taxing authority, and
    - (2) regular, periodic assessments by a property owners’ association; and
  - (~~viii~~) ~~the amounts to pay taxes and insurance; and~~
  - (~~ixi~~) ~~the reasonable amounts expended~~ advances to prevent deterioration of improvements before the Insured’s acquisition of the Title, but;
- ii. ~~but the Indebtedness is~~ reduced by the ~~total~~ sum of all payments and ~~by~~ any amounts s forgiven by an Insured.

# CONDITIONS

~~(#)k.~~ “Insured”:

i. (a). The Insured named in Item 1 of Schedule A ~~=~~ or future owner of the Indebtedness other than an Obligor, if the named Insured or future owner of the Indebtedness owns the Indebtedness, the Title, or an estate or interest in the Land as provided in Condition 2, but only to the extent the named Insured or the future owner either:

(1). owns the Indebtedness for its own account or as a trustee or other fiduciary, or

(2). owns the Title after acquiring the Indebtedness;

~~(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 Subsection 12(c) of these Conditions;~~

~~(bB).~~ 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;

~~(cC).~~ the successors to the Title of an Insured ~~by~~ resulting from dissolution, merger, consolidation, distribution, or reorganization;

~~(dD).~~ the successors to the Title of an Insured ~~by~~ resulting from its conversion to another kind of Entity;

~~(eE).~~ the a grantee of an Insured under a deed or other instrument transferring the Title, if the grantee is an Affiliate ~~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).~~ an Affiliate that acquires the Title through foreclosure or deed-in-lieu of foreclosure of the Insured Mortgage; or

~~(gF).~~ any Government Mortgage Agency or Instrumentality ~~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 ~~Subsections 1(f)(i)(A), 1(f)(i)(B), 1(f)(i)(C), 1(f)(i)(D), and 1(f)(i)(E)~~ Conditions 1.k.i.(a). and 1.k.i.(b)., the Company reserves ~~ing, 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, adverse claim, or other matter insured against by this policy.

iii. With regard to Conditions 1.k.i.(c)., 1.k.i.(d)., 1.k.i.(e)., and 1.k.i.(f)., the Company reserves all rights and defenses as to any successor or grantee that the Company would have had against any predecessor Insured.

# CONDITIONS

- ~~(g)~~ l. “Insured Claimant”: An Insured claiming loss or damage arising under this policy.
- ~~(h)~~ m. “Insured Mortgage”: The Mortgage described in ~~paragraph~~ Item 4 of Schedule A.
- ~~(i)~~ n. “Knowledge” or “Known”: Actual knowledge, ~~not constructive knowledge~~ or actual notice, but not constructive notice imparted by the Public Records ~~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.~~
- ~~(j)~~ o. “Land”: The land described in Item 5 of Schedule A, and ~~affixed~~ improvements located on that land at the Date of Policy that by State law constitute real property. The term “Land” does not include any property beyond ~~the lines of the area~~ that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting streets, roads, avenues, alleys, lanes, right-of-ways, body of water, 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.
- ~~(k)~~ p. “Mortgage”: A Mmortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.

# CONDITIONS

- q. “Municipal”: A political subdivision of a State, such as a city, county, parish, town, or village.
- r. “Obligor”: A person or Entity that is or becomes a maker, borrower, or guarantor as to all or part of the Indebtedness or other obligation secured by the Insured Mortgage. A Government Mortgage Agency or Instrumentality is not an Obligor.
- (#)s. “Public Records”: ~~The recording or filing system~~ Records established under ~~state~~ State statutes in effect at the Date of Policy under which a document must be recorded or filed to impart ~~for the purpose of imparting~~ constructive notice of matters relating to ~~real property~~ the Title to a purchasers for value ~~and~~ without Knowledge. ~~With respect to Covered Risk 5(d),~~ The term “Public Records” shall also ~~does not~~ include any other recording or filing system, including any pertaining to environmental remediation or protection, planning, permitting, zoning, licensing, building, health, public safety, or national security matters ~~liens filed in the records of the clerk of the United States District Court for the district where the Land is located.~~

# CONDITIONS

- t. “State”: The state or commonwealth of the United States within whose exterior boundaries the Land is located. The term “State” also includes the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Guam.
- ~~(m)~~u. “Title”: The estate or interest ~~described~~ in the Land identified in Item 2 of Schedule A.
- ~~(n)~~v. “Unmarketable Title”: The Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title ~~of, a~~ 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.

# CONDITIONS

## 2. CONTINUATION OF ~~INSURANCE~~ COVERAGE

~~The coverage of t~~This policy shall continues ~~in force~~ as of the Date of Policy in favor of an Insured:

- a. after the Insured's 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;~~ and
- b. after the Insured's conveyance of the Title, so long as the Insured:
  - i. retains an estate or interest in the Land;
  - ii. owns an obligation secured by a purchase money ~~M~~mmortgage given by a purchaser from the Insured, ~~or only so long as the Insured shall have;~~ or
  - iii. has liability ~~by reason of~~ for warranties given by the Insured in any transfer or conveyance of the Insured's Title.

Except as provided in Condition 2, this policy terminates and ceases to have any further force or effect after the Insured conveys the Title. This policy ~~shall~~does not continue in force or effect in favor of any ~~purchaser from~~ person or Entity that is not the Insured ~~of either (i) an estate or interest in the Land, or (ii) and acquires~~ the Title or an obligation secured by a purchase money ~~M~~mmortgage given to the Insured.



# CONDITIONS

## 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured ~~shall~~ must notify the Company promptly in writing if the Insured has Knowledge of:

- ~~(i) a. in case of any litigation or other matter as set forth in Subsection 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~~ under this policy; or  
~~(iii) b. if any rejection of~~ 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 this policy ~~shall be~~ is 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, t~~ 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, adverse claim, or other matter insured against by this policy, that constitutes the basis of loss or damage and ~~shall~~ must state, to the extent possible, the basis of calculating the amount of the loss or damage.

# CONDITIONS

## 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~~ Condition 7, the Company, at its own cost and without unreasonable delay, ~~shall~~ will 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~~ has 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~~ covered causes of action. ~~It shall~~ The Company is 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~~ any cause of action that alleges matters not insured against by this policy.
- (b) The Company ~~shall have~~ has the right, in addition to the options contained in ~~Section 7 of these Conditions~~ Condition 7, 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~~ is liable to the Insured. The Company's exercise of these rights ~~shall be~~ is not ~~be~~ an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under ~~this Subsection~~ Condition 5(b), it must do so diligently.
- (c) ~~Whenever~~ When 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~~ having jurisdiction, ~~and it expressly~~ The Company reserves the right, in its sole discretion, to appeal any adverse judgment or order.

# CONDITIONS

## 6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) ~~In all cases where~~ When 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~~ will 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.

~~When ever~~ requested by the Company, the Insured, at the Company's expense, ~~shall~~ must give the Company all reasonable aid in:

(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~~ any failure of the Insured to furnish the required cooperation, the Company's liability and obligations to the Insured under this policy ~~shall~~ terminate, including any ~~liability or~~ obligation to defend, prosecute, or continue any litigation, ~~with~~ regarding ~~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 the 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~~ must grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all ~~of these~~ the records in the custody or control of a third party that reasonably pertain to the loss or damage. ~~All~~ No information designated in writing as confidential by the Insured Claimant provided to the Company pursuant to ~~this Section~~ Condition 6 ~~shall not~~ will be later disclosed to others unless, in the reasonable judgment of the Company, ~~it~~ disclosure is necessary in the administration of the claim or required by law. Any ~~f~~ 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~~ Condition 6 (b), unless prohibited by law, ~~or governmental regulation,~~ ~~shall~~ terminates any liability of the Company under this policy as to that claim.

# CONDITIONS

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

In case of a claim under this policy, the Company ~~shall have~~ has 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~~ . 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 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~~ . 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 purchase and that the Company is obligated to pay.

~~When~~ If the Company purchases the Indebtedness, the Insured ~~shall~~ must 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~~ option provided for in ~~Subsections 7(a)(i) or 7(a)(ii), all~~ Condition 7.a., the Company's liability and obligations ~~of the Company~~ to the Insured under this policy, ~~other than to make the payment required in Subsections 7(a)(i) and 7(a)(ii), shall~~ terminate, including any ~~liability or~~ obligation to defend, prosecute, or continue any litigation.

# CONDITIONS

- ~~(b)~~ To Pay or Otherwise Settle ~~w~~With Parties ~~o~~Other ~~t~~Than the Insured or ~~w~~With the Insured Claimant:
- ~~(i)~~ To pay or otherwise settle with ~~other~~ parties other than the Insured for or in the name of ~~an~~the 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~~. 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.

Upon the exercise by the Company of either ~~of the options~~option provided for in ~~Subsections 7(b)(i) or 7(b)(ii)~~, Condition 7.b., the Company's liability and 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.

# CONDITIONS

## 8. CONTRACT OF INDEMNITY; DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by ~~the~~an Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy. This policy is not an abstract of the Title, report of the condition of the Title, legal opinion, opinion of the Title, or other representation of the status of the Title. All claims asserted under this policy are based in contract and are restricted to the terms and provisions of this policy. The Company is not liable for any claim alleging negligence or negligent misrepresentation arising from or in connection with this policy or the determination of the insurability of the Title.

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

~~(i)~~ (i) the Amount of Insurance;

~~(ii)~~ (ii) the Indebtedness;

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

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

b. Fair market value of the Title in Condition 8.a.iii. is calculated using either:

i. the date the Insured acquires the Title as a result of a foreclosure or deed in lieu of foreclosure of the Insured Mortgage; or

ii. the date the lien of the Insured Mortgage or any assignment set forth in Item 4 of Schedule A is extinguished or rendered unenforceable by reason of a matter insured against by this policy.

# CONDITIONS

- ~~(b)~~c. If the Company pursues its rights under ~~Section 5 of these Conditions~~Condition 5.b. and is unsuccessful in establishing the Title or the lien of the Insured Mortgage, as insured:
- ~~(i).~~i. the Amount of Insurance ~~shall~~will be increased by ~~15~~10%; and
  - ~~(ii).~~ii. the Insured Claimant may, by written notice given to the Company, elect, as an alternative to the dates set forth in Condition 8.b., to use either the date the settlement, action, proceeding, or other act described in Condition 5.b. is concluded or the date the notice of claim required by Condition 3 is received by the Company as the date for calculating the fair market value of the Title in Condition 8.a.iii.~~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 Subsection 8(a) of these Conditions.~~
- ~~(d)~~d. In addition to the extent of liability for loss or damage under ~~Subsections 8(a), 8(b), and 8(c)~~Conditions 8.a. and 8.c., the Company will also pay ~~those~~the costs, attorneys' fees, and expenses incurred in accordance with ~~Sections 5 and 7 of these Conditions~~Conditions 5 and 7.

# CONDITIONS

## 9. LIMITATION OF LIABILITY

- ~~(a).~~ The Company fully performs its obligations and is not liable for any loss or damage caused to the Insured ~~if the Company accomplishes any of the following in a reasonable manner~~ ~~establishes the Title, or:~~
- i. removes the alleged defect, lien, ~~or~~ encumbrance, adverse claim, or other matter;
  - ii. cures the lack of ~~a right of~~ actual vehicular and pedestrian access to ~~and~~ ~~or~~ from the Land, based on a legal right; ~~or~~
  - iii. cures the claim of Unmarketable Title; ~~or~~
  - iv. establishes the lien of the Insured Mortgage,
- ~~all as insured, in a reasonably diligent manner. The Company may do so 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~~ The Company is not liable for loss or damage arising out 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~~ until a State or federal court having ~~of competent~~ jurisdiction, ~~and disposition of all appeals,~~ makes a final, non-appealable determination adverse to the Title or to the lien of the Insured Mortgage, ~~as insured.~~
- ~~(c).~~ The Company ~~shall~~ is 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.
- d. An Insured Claimant must own the Indebtedness or have acquired the Title at the time that a claim under this policy is paid.
- e. The Company is not liable for the content of the Transaction Identification Data, if any. Condition 9.e. does not modify or limit the coverage provided under Covered Risk 12.a.



# CONDITIONS

10. ~~REDUCTION OF INSURANCE;~~ REDUCTION OR TERMINATION OF ~~LIABILITY~~ INSURANCE
- (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 by the Company prior to the acquisition of the Title as provided in Condition 2 ~~Section 2 of these Conditions does~~ shall not reduce the Amount of Insurance afforded under this policy, except to the extent that the payments ~~reduces~~ reduces the Indebtedness.
- (b) When the Title is acquired by the Insured as a result of foreclosure or deed in lieu of foreclosure, the amount credited against the Indebtedness does not reduce the Amount of Insurance.
- c. The voluntary satisfaction or release of the Insured Mortgage ~~shall~~ terminates all liability of the Company, except as provided in ~~Section 2 of these Conditions~~ Condition 2.
11. PAYMENT OF LOSS
- When liability and the extent of loss or damage ~~have been definitely fixed~~ are determined in accordance with ~~these~~ the Conditions, the ~~payment shall be made~~ Company will pay the loss or damage within 30 days.

# CONDITIONS

## 12. COMPANY'S ~~RIGHTS OF~~ RECOVERY AND SUBROGATION RIGHTS UPON ~~PAYMENT OR~~ SETTLEMENT AND PAYMENT

### (a) ~~The~~ *Company's Right to Recover*

i. ~~Whenever~~ if the Company ~~shall have~~ settled s and ~~paid~~ pays a claim under this policy, it ~~shall be~~ is subrogated and entitled to the rights and remedies 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, entity, or property, to the fullest extent ~~of~~ permitted by law, but limited to the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant ~~shall~~ must execute documents to ~~evidence the~~ transfer ~~to the Company of~~ these rights and remedies. to the Company. The Insured Claimant ~~shall~~ permits 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.

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

### b. *Company's Subrogation Rights against Obligors*

The Company's subrogation right includes the Insured's rights against Obligors including the Insured's rights to repayment under a note, indemnity, guaranty, warranty, insurance policy, or bond, despite any provision in those instruments that addresses recovery or subrogation rights. An Obligor cannot avoid the Company's subrogation right by acquiring the Indebtedness as a result of an indemnity, guaranty, warranty, insurance policy, or bond, or in any other manner. The Obligor is not an Insured under this policy. The Company may not exercise its rights under Condition 12.b. against a Government Mortgage Agency or Instrumentality.

# CONDITIONS

## ~~(b)~~c. ~~The Insured's Rights and Limitations~~

- ~~(i)~~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~~the action does not affect the enforceability or priority of the lien of the Insured Mortgage.
- ~~(ii)~~ii. If the Insured exercises a right provided in ~~Subsection Condition 12(b)(c.i)~~Subsection Condition 12(c.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~~is required to pay only that part of ~~any losses~~the loss insured against by this policy that ~~shall~~exceeds the amount, if any, lost to the Company by reason of the impairment by the Insured Claimant of the Company's ~~right of~~ subrogation right.

## ~~(c) The Company's Rights against Non-Insured Obligors~~

~~The Company's right of subrogation includes the Insured's rights against non-insured obligors including the rights of the Insured to indemnities, guarantees, 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 Subsection 1(f)(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.~~

# CONDITIONS

## ~~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.~~

# CONDITIONS

## 13~~14~~. ~~LIABILITY LIMITED TO THIS POLICY;~~ POLICY ENTIRE CONTRACT

- ~~(a)~~ This policy together with all endorsements, if any, ~~attached to it~~issued 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~~will be construed as a whole. This policy and any endorsement to this policy may be evidenced by electronic means authorized by law.
- ~~(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)~~b. Any amendment of ~~or endorsement to~~ this policy must be by a written endorsement in writing issued by the Company. To the extent any term or provision of an endorsement is inconsistent with any term or provision of this policy, the term or provision of the endorsement controls. ~~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.~~ Unless~~Except as~~ the endorsement expressly states, it does not:
  - ~~(i)~~ ~~modify any of the terms and provisions of this policy,~~
  - ~~(ii)~~ modify any prior endorsement,
  - ~~(iii)~~ extend the Date of Policy,
  - iii. insure against loss or damage exceeding the Amount of Insurance, or
  - ~~(iv)~~ increase the Amount of Insurance.

# CONDITIONS

## 14~~15~~. SEVERABILITY

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

## 15~~16~~. CHOICE OF LAW; AND CHOICE OF FORUM

### ~~(a)~~. *Choice of Law*:

~~The Insured acknowledges the~~The Company has underwritten the risks covered by this policy and determined the premium charged ~~therefor~~ in reliance upon the State law affecting interests in real property and the State law applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the ~~jurisdiction~~State where the Land is located.

~~Therefore, the court or an arbitrator shall apply the~~The State law of the ~~jurisdiction~~State where the Land is located ~~to~~will 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 the interpretation and ~~enforce~~enforcement of the terms of this policy. ~~In neither case shall the court or arbitrator apply its,~~ without regard to 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 ~~s~~Sate or federal court within the United States of America or its territories having ~~appropriate~~ jurisdiction.



# CONDITIONS

## 18. ARBITRATION

- a. All claims and disputes arising out of or relating to this policy, including any service or other matter in connection with issuing this policy, any breach of a policy provision, or any other claim or dispute arising out of or relating to the transaction giving rise to this policy, may be resolved by arbitration. If the Amount of Insurance is \$2,000,000 or less, any claim or dispute may be submitted to binding arbitration at the election of either the Company or the Insured. If the Amount of Insurance is greater than \$2,000,000, any claim or dispute may be submitted to binding arbitration only when agreed to by both the Company and the Insured. Arbitration must be conducted pursuant to the Title Insurance Arbitration Rules of the American Land Title Association (“ALTA Rules”). The ALTA Rules are available online at [www.alta.org/arbitration](http://www.alta.org/arbitration). The ALTA Rules incorporate, as appropriate to a particular dispute, the Consumer Arbitration Rules and Commercial Arbitration Rules of the American Arbitration Association (“AAA Rules”). The AAA Rules are available online at [www.adr.org](http://www.adr.org).
- b. ALL CLAIMS AND DISPUTES MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY SERVE AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS OR REPRESENTATIVE PROCEEDING IN ANY ARBITRATION GOVERNED BY CONDITION 18. The arbitrator does not have authority to conduct any class action arbitration or arbitration involving joint or consolidated claims under any circumstance.
- c. If there is a final judicial determination that a request for particular relief cannot be arbitrated in accordance with this Condition 18, then only that request for particular relief may be brought in court. All other requests for relief remain subject to this Condition 18.
- d. Fees will be allocated in accordance with the applicable AAA Rules. The results of arbitration will be binding upon the parties. The arbitrator may consider, but is not bound by, rulings in prior arbitrations involving different parties. The arbitrator is bound by rulings in prior arbitrations involving the same parties to the extent required by law. The arbitrator must issue a written decision sufficient to explain the findings and conclusions on which the award is based. Judgment upon the award rendered by the arbitrator may be entered in any State or federal court having jurisdiction.]

*NOTE: Bracketed [ ] material optional*





# OTHER ALTA FORMS IMPACTED BY REVISIONS TO "BASE" POLICIES



# OTHER ALTA FORMS IMPACTED



- **ALTA Loan Policy**
- **ALTA Owner's Policy**
- **ALTA Homeowner's Policy**
- **ALTA Short Form Residential Loan Policies**
  - ALTA Short Form Residential Loan Policy
  - ALTA Short Form Residential Loan Policy—Current Violations
- **ALTA Short Form Expanded Coverage Residential Loan Policies**
  - ALTA Short Form Expanded Coverage Residential Loan Policy—Assessments Priority
  - ALTA Short Form Expanded Coverage Residential Loan Policy—Current Assessments
- **ALTA Commitment**
- **ALTA Short Form Commitment**
- **ALTA Closing Protection Letters**
  - ALTA Closing Protection Letter—Single Transaction
  - ALTA Closing Protection Letter—Multiple Transactions

# OTHER ALTA FORMS IMPACTED

- ALTA 3[-06] Zoning
- ALTA 3.1[-06] Zoning—Completed Structures
- ALTA 3.2[-06] Zoning—Land Under Development
- ALTA 3.3[-06] Zoning—Completed Improvement—Non-Conforming Use
- ALTA 3.4[-06] Zoning—No Zoning Classification
- ALTA 4[-06] Condominium—Assessments Priority
- ALTA 4.1[-06] Condominium—Current Assessments
- ALTA 6[-06] Variable Rate Mortgage
- ALTA 6.2[-06] Variable Rate Mortgage—Negative Amortization
- ALTA 7.1[-06] Manufactured Housing—Conversion—Loan Policy
- ALTA 7.2[-06] Manufactured Housing—Conversion—Owner's Policy
- ALTA 8.1[-06] Environmental Protection Lien
- ALTA 10[-06] Assignment
- ALTA 10.1[-06] Assignment and Date Down
- ALTA 11[-06] Mortgage Modification
- ALTA 11.1[-06] Mortgage Modification with Subordination
- ALTA 11.2[-06] Mortgage Modification with Additional Amount of Insurance

# OTHER ALTA FORMS IMPACTED

- ALTA 12[-06] Aggregation—Loan Policy
- ALTA 12.1[-06] Aggregation—State Limits—Loan Policy
- ALTA 14[-06] Future Advance—Priority
- ALTA 14.1[-06] Future Advance—Knowledge
- ALTA 14.2[-06] Future Advance—Letter of Credit
- ALTA 14.3[-06] Future Advance—Reverse Mortgage
- ALTA 26[-06] Subdivision
- ALTA 27[-06] Usury
- ALTA 28.1[-06] Encroachments—Boundaries and Easements
- ALTA 30[-06] Shared Appreciation Mortgage
- ALTA 30.1[-06] Commercial Participation Interest
- ALTA 32[-06] Construction Loan
- ALTA 32.1[-06] Construction Loan—Direct Payment
- ALTA 32.2[-06] Construction Loan—Insured's Direct Payment
  
- **Other Forms?**



# HOW CAN YOU PREPARE?

---

# HOW CAN YOU PREPARE?

- **Underwriter Training & Guidance**
- **Production Software Updates**
- **ALTA News and Information**
- **ALTA Policy Forms Online at [alta.org/policy-forms](https://alta.org/policy-forms)**

# QUESTIONS?

---