ENDORSEMENT MANUAL

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FIDELITY NATIONAL TITLE GROUP, INC.

August 2013
FOREWORD

PURPOSE OF ENDORSEMENT MANUAL

This Endorsement Manual ("Manual") is prepared exclusively for the use of employees and agents of the Fidelity National Title Group, Inc. family of title insurance companies ("Company") which includes: Alamo Title Insurance, Chicago Title Insurance Company, Commonwealth Land Title Insurance Company, and Fidelity National Title Insurance Company.

The endorsement forms contained in the Manual are representative versions of acceptable forms generally in use. Local practices and regulatory requirements may result in different versions of these forms. No endorsement form, whether one contained in the Manual or any accepted version thereof in use in a particular area, should be modified at a customer's request without considering the state regulatory requirements for filing and approval of forms and discussing the request for modification with a Company underwriting advisor.

CONFIDENTIALITY OF MANUAL

All materials contained in the Manual are confidential communications from the Company to you. Under no circumstances are the instructions or any other part of the Manual to be given or communicated to anyone who is not an employee or agent of the Company. However, the endorsement forms contained in the Manual may be duplicated and given to our customers as specimen copies in order to facilitate the issuance of our title insurance policies. Such specimen copies must clearly indicate that they are specimens through the use of the words SPECIMEN COPY or other such words.

ISSUANCE OF ENDORSEMENTS

No endorsement in the Manual is to be issued unless the instructions associated with that endorsement are followed or any additional instructions or conditions that may be contained in other memos or directions from the Company are complied with. When the instructions require approval by a Company underwriting advisor, such approval must be obtained and maintained in the file. No endorsement to a policy may be issued without compliance with applicable state insurance statutes and regulations.

Several of the endorsements in the Manual provide insurance for matters not disclosed by the public records at the date the policy is issued. Therefore, any time the Date of Policy of a policy containing any endorsement is updated or changed, consideration must be given to whether or not the new effective date will have an unintended consequence on the insurance provided by the endorsement. When in doubt, contact a Company underwriting advisor.

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INTRODUCTION

What is an endorsement?

“A provision added to an insurance contract whereby the scope of its coverage is restricted or enlarged.”

In order to understand what an endorsement is, we must first take a look at the underlying insurance policy. A title insurance policy is a contract of indemnity. The American Land Title Association (“ALTA”) forms that we issue in the vast majority of states provide in Condition 8 of the Owners and the Loan policies:

“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.”

We must be careful to support this definition in the construction of our endorsements. Why is this distinction so important? In order to have our liability capped at the policy amount, the courts must determine our liability within the scope of the contract (the four corners of the instrument), under rules of contract law and not on the basis of tort liability (negligence). In tort, the liability amounts might not be limited by the policy amount, but could be determined to be all damages, regardless of the amount of policy. This opened ended liability is similar to what is sometimes referred to as “abstractors’ liability”.

A contract of indemnity, as used in our forms, insures against loss or damage occasioned by the risk we have identified. In response to a series of cases in the mid 1990’s (called the “Alliance” cases) the endorsement forms were changed to conform the language to the indemnity structure of the policy. Previously, the format of some endorsements used the following style of language:

……any inaccuracies in the following (or previous) statements……

The court held that this language made the endorsements opinions of title and therefore subject to a law suit in tort for negligence based upon a negligent rendering of that opinion. Because the action would be held to be in tort and not in contract, the limitation on liability in the policy would not be effective.

We should be specifying the risk we will undertake, not opining on the state of facts. A way to remember this is that we do not insure the sky is blue. We insure against loss or damage.
occasioned by the sky not being blue. It may be difficult to see the difference at first. But the policies themselves are written in the same indemnity language:

“SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CANTAINED IN SCHEDULE B AND THE CONDITIONS…[The Company] insures….against loss or damage, ….sustained or incurred by the Insured by reason of:”

The Covered Risks then listed are written in the indemnity language form:

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

We don’t insure “title is vested as shown”; we insure against loss if title is not vested as shown, (vested in a different manner than is shown). Sometimes this language looks “negative” at first glance. But once again, it is important to utilize this language in endorsements to conform to the policy structure.

If you come across old endorsement language, or are requested to issue an endorsement utilizing that old format – DON’T USE IT! Please discuss any such form or request with the Company’s underwriting advisor.

**ALTA Policies**

In most states we issue policies that are promulgated by the American Land Title Association (usually referred to as ALTA). This is the national professional organization for our industry. Not all states issue ALTA policies. In California, they also issue the CLTA (or California Land Title Association) forms. Texas, New Mexico and New York also issue their own type of policy. Some states, such as Florida and Pennsylvania, issue ALTA Policies, but issue only a few of the hundreds of endorsements that are available nationwide. This manual contains forms that were prepared for use with the ALTA policy forms. Some endorsements were written by ALTA; they are designated as such and are located in the first part of the manual. Each title company also writes its own endorsements which are sometimes referred to as “proprietary” or “non-ALTA” forms. These are shown after the ALTA form sections.
Loan Policy vs. Owners Policy Endorsements

As you look through the manual, you will see that some endorsement forms are available ONLY for Loan Policies, some ONLY for Owners Policies and some for both. There are usually more endorsements available for the lender because the risk is different than for an owner.

The equity an owner has in a piece of property is a buffer we benefit from when we insure the lender. In other words, if there is a loss, and the loss does not exceed the equity, the lender is not affected. The owner is harmed from dollar one of the loss, so the odds of there being a loss from any specific risk is always greater for an owner.

In addition, in order to prove a loss, the lender might have to go through foreclosure and not get sufficient proceeds to cover its debt, AND the loss has to be based on the title issue, not other economic market factors. That type of loss is harder to prove than the owners' loss. That is why one of the first questions the underwriter asks when discussing coverage requests is what type of policy is being issued. They need this information to assess the risk properly, again, because they are different risks.

Rates and Forms

The Forms contained in this manual are the standard forms that have been approved generally for use. If you are located in a state that has a forms filing requirement, you must verify that these forms have been filed for use. Some forms may have been modified in order to be filed. You must use the appropriate form filed for your state instead of the form shown here, if that is an issue for your state.

Rates are usually based upon the risk assumed, the work involved to analyze that risk and the market.

There are four approaches used throughout the country for the filing of rates and forms which the Company is subject to: Promulgated; Rating Bureaus; Filing required; No filing required.

In promulgated states, rates and forms are created legislatively, and are usually set forth in a state’s Administrative Code. All companies issuing title insurance in promulgated states must adhere to the rates set forth in the Code and usually must use the forms prescribed by the Code. The three promulgated states are Florida, New Mexico and Texas. New Mexico and Texas prescribe all forms that must be used. Florida prescribes many forms, particularly endorsements, but title insurers may also individually file their own forms.

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A Rating Bureau is comprised of a consortium of Title Insurers that, pursuant to statute, are permitted to set rates and, in most cases, prescribe forms for use in a particular state. All rates set by, and forms prescribed by, a rating bureau must be filed with and approved by the state agency that regulates the title insurance industry. The eight rating bureau states are Delaware, Louisiana, New Jersey, New York, North Carolina, Ohio, Oregon and Pennsylvania. All rating bureaus permit the filing of "additional" rates and forms by individual title insurers that are in addition to those filed by the rating bureau. Unless an "additional" rate or form is being used, all title insurers must charge the rates and use the forms created by the rating bureau.

Many states require that rates and/or forms be filed with and approved by the state agency that regulates the title insurance industry. Some states require that both rates and forms be filed, while others only require that rates or forms be filed. In all instances where a rate or form is required to be filed, title insurers must use the rate and/or form filed in that state. In a state that requires rates, but not forms, to be filed title insurers may not issue any title insurance products until there is a rate filed for those products. Conversely, in states that require forms to be filed, but not rates, no title insurance products can be issued until the applicable form has been filed. In all cases where a filing is required, the filed rate and/or form must be supported by the underwriter’s filed rate manual.

A handful of states do not require that any rates or forms be filed. These states include District of Columbia, Illinois, Indiana, Massachusetts, Mississippi and Oklahoma. Even though filings are not required in these states, some have published rate manuals which must be followed when determining rates to be used and forms to be issued. Some of the states publish rates on a local or regional basis, which published rates should be followed when issuing title insurance products. Each underwriter in the non-filed states has a prescribed set of forms which are intended for use by all operations.

Questions about the application of rates or approved forms in any of the states should be discussed with the Company’s underwriting advisor.

REMEMBER: We are prohibited from discussing or setting rates between companies outside of a Rating Bureau. Rates may or may not be the same between companies.
SAMPLE ENDORSEMENT:

ENDORSEMENT

A
Attached to and forming a part of

Policy of Insurance No. ______________(File no______)  
Issued By
[FNTG BRAND] TITLE INSURANCE COMPANY

B

C
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.

D
Dated:

E
[FNTG BRAND] TITLE INSURANCE COMPANY

F
Authorized signatory

A: Identify the policy
B: Describe the coverage
C: Integration or “boilerplate” clause
D: Date endorsement is issued, NOT the effective date of the coverage, unless specifically defined as such (see ALTA 10 and ALTA 11). If the endorsement is issued contemporaneously with the policy, it may be dated with the effective Date of Policy.
E: Identify Company
F: Signed by licensed agent or authorized party.
Uses

As was mentioned at the beginning of this introduction, an endorsement can be used to restrict or enlarge coverage. Most commonly they are to increase coverage, either by identifying additional risks assumed or deleting a limiting provision, such as an exception or exclusion. A caution on using an endorsement to decrease coverage: the endorsement may be easily removed from the policy. The policy might then be offered up as giving coverage where none was meant. An example - endorsing a commitment to add an exception such as an additional easement not contained in the original commitment. If the party issuing the final policy did not have or know about the endorsement, the policy would be issued without the additional exception, and this mistake could be carried forward in the future. The current insured buyer might be found to have had knowledge of the matter and be bound by it, but perhaps not its lender (if they had not seen the endorsement) and presumably not a future buyer.

A good rule of thumb is to use an endorsement to increase liability; amend the commitment or policy to decrease the liability. An endorsement reducing the Amount of Insurance after the claims process would be an exception to this rule.

Drafting Endorsements Not Included in This Manual

There are many instances in which the Company will agree to assume specific liability for matters not covered by any of the sample endorsements included within this manual. Where appropriate, for those endorsements containing affirmative insurance that we want to extend only after a court determination (as opposed to giving the coverage against an assertion of an interest or challenge to the title before an action is commenced, as we sometimes may be willing to do) the following format is preferred:

    The Company insures the Insured against loss or damage that the Insured shall sustain by reason of the entry of a final, non-appealable order or judgment finding ……

If you are an Agent, any requests for this type of coverage must be discussed with your Company underwriting advisor.

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**CLTA to ALTA Endorsement Conversion Chart (Rev. 04-02-13)**

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ALTA to CLTA Endorsement Conversion Chart (Rev. 04-02-13)
Prepared by Paul Flores

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STREET ASSESSMENTS

ALTA ENDORSEMENT - FORM 1-06

PURPOSE
The repair and maintenance of public streets is either contracted for by a governmental body or done directly by government employees. The property owners adjoining the streets or in the generally benefited area are usually assessed the costs of the work on some basis. The governmental body is almost universally given a lien to secure the payment of this assessment.

This endorsement is concerned with the priority of that lien if the improvements are either in process or completed at the Date of Policy. If this lien is prior to the lien of the Insured Mortgage and the assessments are not paid by the borrower, the lender will have to pay them in order to stop a tax foreclosure. This endorsement covers the loss or damage which the lender may sustain by having to pay the assessments which have gained priority over the Insured Mortgage. Whether the assessment lien has priority at the Date of Policy or gains that priority later is immaterial. This endorsement covers the lender in either event.

SECTION OF THE POLICY AMENDED BY ENDORSEMENT

This endorsement is incorporated into the terms of the ALTA Loan Policy in use in some states, particularly in the West. Those policies contain the note that they include “ALTA Form 1 Coverage.” The instructions set out below should be followed when issuing such a policy form or the Form 1-06 endorsement.

BASIS FOR PROVIDING COVERAGE

This endorsement may be issued to all ALTA Loan Policies under the following circumstances:

1. Access to the Land is by a private easement and the land or easement does not adjoin a public street or generally benefited area.

2. At Date of Policy, there are no street improvements under construction or recently completed which could generate a later assessment lien.

3. The Insured Mortgage is recorded prior to the commencement of work on new subdivision streets or other streets adjoining the Land or in the generally benefited area.
4. All street improvements are currently complete and you have determined that the assessments for them have been fully paid.

5. The lien securing the street assessments attaches to the title to the Land after the Insured Mortgage is recorded and does not relate back to a prior point in time. While this is a possibility, it is very unlikely. The law usually gives governmental units assessment liens the same priority as real estate tax liens. Therefore, before proceeding on this basis, you must obtain the approval of the Company’s underwriting adviser.

You must obtain the approval of the Company’s underwriting adviser to issue this endorsement on any basis other than as specified above.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.
ENDORSEMENT

Attached to Policy No.______
Issued by
[FNTG BRAND]

The Company 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 lien of any assessments for street improvements under construction or completed 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]

DATED:

[FNTG BRAND]

BY: _____________________________

AUTHORIZED SIGNATORY
PURPOSE

This endorsement is for loan policies only. It provides insurance against some losses the Insured may suffer if the borrower exercises a right of rescission under Regulation Z of the Federal Truth in Lending Act. To be covered, the loss would have to come from a termination of the mortgage lien or the voiding of the Title of a mortgagee who acquired it in a proper foreclosure or workout.

SECTION OF THE POLICY AMENDED BY ENDORSEMENT

This endorsement amends Exclusions from Coverage No. 5 of the ALTA Loan Policy. This section eliminates the policy coverage for enforceability of the Insured Mortgage if enforceability is denied because of usury, or violation of any consumer credit protection or truth-in-lending law.

BASIS FOR PROVIDING COVERAGE

This endorsement is not to be issued on the basis of the lender’s compliance with Regulation Z. It is to be issued only if the transaction is not covered by the regulation. For our purposes, this includes only transactions in which:

The borrower is a corporation, partnership or governmental unit; or

The loan is for non-agricultural business or commercial purposes.

CAUTION: LOANS SECURED BY OWNER OCCUPIED SINGLE FAMILY DWELLINGS CAN NEVER BE CONSIDERED LOANS FOR COMMERCIAL PURPOSES.

You must obtain the authority of the Company’s underwriting adviser before honoring any request to issue this endorsement in any case not specified above.
MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference that in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

Return to Table of Contents
ENDORSEMENT
Attached to Policy No.______
Issued by
[FNTG BRAND]

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

any final judgment of a court of competent jurisdiction that either the lien of the Insured Mortgage has been terminated or the Title of an Insured, who has acquired all or any part of the Land by foreclosure, trustee's sale, conveyance in lieu of foreclosure, or other legal manner, which discharges the lien of the Insured Mortgage, has been defeated by a valid exercise of the right of rescission conferred by the Federal Truth-in-Lending Act and that the right or rights of rescission existed because neither the credit transaction evidenced by the Insured Mortgage nor the right of rescission was exempted or excepted by the provisions of Regulation Z (12 CFR 226).

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 Optional]

DATED:

[FNTG BRAND]

BY: _____________________________
AUTHORIZED SIGNATORY
CAUTION: ZONING INSURANCE CONSTITUTES AN EXTRA HAZARDOUS RISK. THEREFORE, NO ZONING ENDORSEMENT IS TO BE ISSUED WITHOUT THE EXPRESS AUTHORIZATION OF THE COMPANY’S UNDERWRITING ADVISER.

PURPOSE

These forms carefully select certain zoning issues for coverage. They do not provide unlimited zoning insurance.

ALTA Endorsement Form 3-06 (Zoning-Unimproved Land)

This endorsement provides insurance with respect to the zoning classification covering the Land and the uses permitted on the Land in that zone. It also insures against loss if any of those uses are prohibited by a court order that invalidates the zoning ordinance. However, it does not insure against losses suffered because the Land can’t be sold or mortgaged due to any zoning problem. This endorsement is appropriate for both vacant and improved land.

ALTA Endorsement 3.1-06 (Zoning-Completed Structure)

This endorsement provides the same coverage as Endorsement Form 3-06, above, and is subject to the same limitations. It also insures against losses from court orders which:

Prohibit use of the Land for specified purposes allowed by the zoning because certain physical characteristics of the Land violate the ordinance; and

Require removal or modification of the structure located on the Land due to these violations.

This endorsement is issued for policies covering improved property.

ALTA Endorsement 3.2-06 (Zoning – Land Under Development)

This endorsement became effective on April 2, 2012 and extends the coverage available in the Endorsement Form 3.1-06. That coverage, previously only available for Land which contained...
existing improvements, can now be given for Land on which proposed buildings are to be built or constructed, if the proposed building is built or constructed according to site and elevation plans identified therein.

This endorsement is issued for policies covering property upon which improvements are to be built or constructed. [a technical correction to the language was made by ALTA 12-3-2012]

SECTION OF THE POLICY AMENDED BY THE ENDORSEMENT

These endorsements amend Exclusions from Coverage No. 1 (a) of the ALTA Owner’s and Loan Policies. Use with other policy versions must be approved by your Company’s underwriting advisor.

BASIS FOR PROVIDING COVERAGE

**CAUTION:** A CERTIFICATE FROM A ZONING OR PLANNING AUTHORITY OR A LETTER FROM A MUNICIPALITY, A SO-CALLED MUNI-LETTER, IS NOT A SUFFICIENT BASIS FOR ANY DETERMINATION TO BE MADE BELOW. THESE LETTERS DO NOT ESTOP THE AUTHORITY OR MUNICIPALITY IF THEY ARE INCORRECT. FURTHERMORE, THEY DO NOT COVER CONSTITUTIONALITY CONCERNS OR SPOT ZONING PROBLEMS.

1. We must determine the zone designation in which the Land lies from the most recent, official zoning maps.

   All of the endorsements require this designation to be inserted in the space provided at paragraph No. 1(a) [for Forms 3-06 and 3.1-06] or 2(a) [for Form 3.2-06].

   The Land must fall clearly within the boundaries of the zone designation. If the scale of the maps is too small, or the maps are too unclear to make this determination accurately, you must be able to determine it by the legal description in the ordinance or resolution, if it contains such a description. Otherwise, we will not provide the insurance.

2. We must be satisfied that the zoning ordinance or resolution is valid before these endorsements may be issued.
This requirement can be satisfied by an attorney’s opinion from an attorney skilled in zoning matters. This opinion must meet the following requirements:

a. It must either be written to us or the attorney must give us a letter authorizing us to rely on it for the purposes of our zoning insurance.

b. It must cover at least the following matters:

   The constitutionality of the zoning ordinance or resolution under the federal and state constitutions.

   The compliance with all state laws in the process of the adoption of the ordinance or resolution with respect to the land being insured.

   This includes, but is not limited to, an analysis of the following matters:

   (1) The propriety of notices for the hearing on the zoning change; (2) the compliance of the hearing with state “open meeting” or “sunshine” laws; (3) the presence of a quorum of the necessary officials; (4) the approval of the necessary majority of officials at that meeting; (5) the approval of any other officials or public bodies which may be necessary; (6) the recordation or filing of the ordinances with the county recorder or other body, if necessary; and (7) the expiration of all periods of appeal without appeal being taken.

c. It must also address the susceptibility of the ordinance to attack because it constitutes spot zoning, contract zoning, or zoning which violates some public policy, such as zoning excluding the elderly.

Frequently, the Company’s underwriting advisor will undertake to determine these matters. If this is the case, no separate attorney’s opinion will be required. You should check with the underwriting adviser on this issue prior to requiring an attorney’s opinion. In special situations such as newly enacted zoning, newly annexed property and in certain areas such as Washington, D.C., (and other areas of the Northeast) an opinion letter may still be necessary. Some areas have zoning that is extremely complex, requiring special expertise.

3. We must determine the likelihood of an attack on the zoning we are asked to insure.
This requires an assessment of the compatibility of the uses permitted under the ordinance or resolution with the use being made of the surrounding land. Therefore, we must be informed by a reliable source of the public sentiment concerning the project. The number of persons objecting at the hearing to the imposition of the zoning, who they represented and the nature of their complaints are some indications of public sentiment. This factor is more critical in the case of newly changed zoning than where the zoning has been long standing.

4. We must determine the uses permitted as a matter of right in the zone from the most recent, official zoning ordinances or resolutions.

If we issue Endorsement Form 3-06 or 3.1-06, these uses will be inserted in the space provided at the end of paragraph no. 1b of the forms. If we issue Endorsement Form 3.2-06, these uses will be inserted in the space provided at the end of paragraph no. 2b of the form. When the uses are inserted, they must be inserted exactly in the form in which they are set forth in the ordinance or resolution.

Interpretation of the designated uses can be extremely dangerous. For example, if the ordinance allows the use of the Land for "shopping centers," and the customer intends to build a department store on the property, you are not to insert "department stores" into the endorsement, but rather use the words "shopping centers" contained in the ordinance.

Requests for coverage of conditional uses must be approved by the Company's underwriting adviser on a case by case basis and require adjustment of the language of the endorsements.

5. If the Endorsement Form 3.1-06 is requested, the following additional requirements must be met:

   An analysis of the zoning ordinance or resolution, and of the site and elevation plans identified in paragraph 1b, to determine any restrictions, with respect to the following matters:

   • Area, width or depth of the Land as a building site for the structure constructed on it.
   • Floor space area of the structures on the Land.

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• Setback requirements for the structures on the Land.
• Height of the structures on the Land.
• Number of parking spaces striped.

If the ordinance or resolution contains any or all such restrictions, then we will require a current accurate survey from a reputable surveyor which includes the representation of any such matter in order to evaluate compliance with the restrictions.

It is not possible to say categorically just what the survey must contain. For example, whether the Land contains sufficient area for the Improvements may depend upon more than just its area and the floor space of the building. Among other issues, parking, open space and landscaping requirements may also have to be considered.

6. If the Endorsement Form 3.2-06 is requested, the following additional requirements must be met:

An analysis of the zoning ordinance or resolution, and of the site and elevation plans identified in paragraph 1b, to determine any restrictions, with respect to the following matters:

• Area, width or depth of the Land as a building site for the Improvements to be built or constructed on it.
• Floor space area of the proposed Improvements on the Land.
• Setback requirements for the proposed Improvements on the Land.
• Height of the proposed Improvements on the Land.
• Number of parking spaces to be striped.

If the ordinance or resolution contains any or all such restrictions, then we will require the site and elevation plans identified in paragraph 1 (b) which must contain the same elements as those in a current, accurate survey, in order to evaluate compliance with the restrictions.

It is not possible to say categorically just what the Plans must contain. For example, whether the Land contains sufficient area for the proposed Improvements may depend upon more than just its area and the floor space of the building. Among other issues, parking, open space and landscaping requirements may also have to be considered.
Occasionally, you may receive requests to cover matters in addition to those above. Requests to cover compliance with parking “requirements” are common, but not acceptable. We can count the number of spaces, but we do not want to analyze whether the spaces themselves are proper dimensions or include sufficient handicap spots. Coverage requests for conditional uses and non-conforming uses are also frequent, but, as mentioned before, the language of the endorsements must be changed to accommodate those issues. Before responding to such a request, you should contact the Company’s underwriting advisor.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement may not be considered an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting advisor before complying with any request for a modification.
ENDORSEMENT
Attached to Policy No.______
Issued by ________________
[ENDORSEMENT]

1. The Company insures against loss or damage sustained by the Insured in the event that, at Date of Policy,
   a. According to applicable zoning ordinances and amendments, the Land is not classified Zone [FILL IN];
   b. The following use or uses are not allowed under that classification:
      [FILL IN]

2. There shall be no liability under this endorsement based on
   a. Lack of compliance with any conditions, restrictions, or requirements contained in the zoning ordinances and amendments, including but not limited to the failure to secure necessary consents or authorizations as a prerequisite to the use or uses. This paragraph 2.a. does not modify or limit the coverage provided in Covered Risk 5.
   b. The invalidity of the zoning ordinances and amendments until after a final decree of a court of competent jurisdiction adjudicating the invalidity, the effect of which is to prohibit the use or uses.
   c. The refusal of any person to purchase, lease or lend money on the estate or interest covered by this 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 to it.

[Witness Optional]

DATED: ________________

[FNTG BRAND]

BY: _____________________________
AUTHORIZED SIGNATORY

ALTA Endorsement Form 3-06
(Zoning – Unimproved Land) (6/17/06)
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ENDORSEMENT
Attached to Policy No.______
Issued by
[FNTG BRAND]

1. The Company insures against loss or damage sustained by the Insured in the event that, at Date of Policy,
   a. according to applicable zoning ordinances and amendments, the Land is not classified Zone FILL IN;
   b. the following use or uses are not allowed under that classification: FILL IN
   c. There shall be no liability under paragraph 1.b. if the use or uses are not allowed as the result of any lack of compliance with any conditions, restrictions, or requirements contained in the zoning ordinances and amendments, including but not limited to the failure to secure necessary consents or authorizations as a prerequisite to the use or uses. This paragraph 1.c. does not modify or limit the coverage provided in Covered Risk 5.

2. The Company further insures against loss or damage sustained by the Insured by reason of a final decree of a court of competent jurisdiction either prohibiting the use of the Land, with any existing structure, as specified in paragraph 1.b. or requiring the removal or alteration of the structure, because, at Date of Policy, the zoning ordinances and amendments have been violated with respect to any of the following matters:
   a. Area, width, or depth of the Land as a building site for the structure
   b. Floor space area of the structure
   c. Setback of the structure from the property lines of the Land
   d. Height of the structure, or
   e. Number of parking spaces.

3. There shall be no liability under this endorsement based on:
   a. the invalidity of the zoning ordinances and amendments until after a final decree of a court of competent jurisdiction adjudicating the invalidity, the effect of which is to prohibit the use or uses;
   b. the refusal of any person to purchase, lease or lend money on the Title covered by this 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 to it.

[Dated]
[FNTG BRAND]
BY: _______________________________
AUTHORIZED SIGNATORY

ALTA Endorsement Form 3.1-06
(Zoning-Completed Structure) (rev. 10/22/09)
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ENDORSEMENT
Attached to Policy No. _________
Issued by
[FNTG BRAND]

1. For purposes of this endorsement:
   a. “Improvement” means a building, structure, road, walkway, driveway, curb, subsurface utility or water well existing at Date of Policy or to be built or constructed according to the Plans that is or will be located on the Land, but excluding crops, landscaping, lawns, shrubbery, or trees.
   b. “Plans” means those site and elevation plans made by [name of architect or engineer] dated _____, last revised __________, designated as [name of project] consisting of ___ sheets.

2. The Company insures against loss or damage sustained by the Insured in the event that, at Date of Policy
   a. according to applicable zoning ordinances and amendments, the Land is not classified Zone ______________________;
   b. the following use or uses are not allowed under that classification:
   c. There shall be no liability under paragraph 2.b. if the use or uses are not allowed as the result of any lack of compliance with any condition, restriction, or requirement contained in the zoning ordinances and amendments, including but not limited to the failure to secure necessary consents or authorizations as a prerequisite to the use or uses. This paragraph 2.c. does not modify or limit the coverage provided in Covered Risk 5.

3. The Company further insures against loss or damage sustained by the Insured by reason of a final decree of a court of competent jurisdiction either prohibiting the use of the Land, with any existing Improvement, as specified in paragraph 2.b. or requiring the removal or alteration of the Improvement, because of a violation of the zoning ordinances and amendments in effect at Date of Policy with respect to any of the following matters:
   a. Area, width, or depth of the Land as a building site for the Improvement
   b. Floor space area of the Improvement
   c. Setback of the Improvement from the property lines of the Land
   d. Height of the Improvement, or
   e. Number of parking spaces.

4. There shall be no liability under this endorsement based on:
   a. the invalidity of the zoning ordinances and amendments until after a final decree of a court of competent jurisdiction adjudicating the invalidity, the effect of which is to prohibit the use or uses;
   b. the refusal of any person to purchase, lease or lend money on the Title covered by this 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]

[FNTG BRAND]

By: ________________________________

Authorized Signatory

ALTA Endorsement Form 3.2-06
(Zoning-Land Under Development) (4/2/12)
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[includes technical correction of 12-3-12]
CONDOMINIUM
ALTA ENDORSEMENT FORMS 4-06 and 4.1-06

PURPOSE

These endorsements provide affirmative insurance to mortgage lenders loaning on the security of condominium units. There are seven matters selected for insurance in these endorsements. Some of them would be covered by the policy without these endorsements but they are stated anyway to facilitate the sale of mortgage loans in the secondary market. The ALTA 4.1-06 differs from the ALTA 4-06 only in that there is no insurance of priority over future assessments in paragraph 4 of the endorsement. Thus, the 4.1-06 is appropriate for use in states where insured second mortgages do not have priority, or where first mortgages are primed by certain assessments. The ALTA 4.1-06 is also the appropriate form to be used with an Owners Policy.

This endorsement is designed to be issued only after considering the relevant aspects of the condominium project in which the unit exists. If the requirements presented below cannot be met, you must either decline to issue this endorsement or offer to issue a modified version deleting one or more insuring clauses.

SECTION OF THE POLICY AMENDED BY ENDORSEMENT

No specific section of the policy is amended by these endorsements; however additional affirmative coverages are added.

BASIS FOR PROVIDING COVERAGE

Insuring Paragraph Nos. 1 and 2 insure against loss if the unit is not part of a condominium regime or if Title to the unit is affected by any failure of the condominium documents to comply with applicable statutes.

First, the project must comply with all requirements of the condominium statutes in the state where it is located, including meeting all statutory requirements for form and content for the declaration, plat and any other required instruments or processes.

Second, the insured unit must be properly identified in the declaration and on the plat or map so as to be included within the project.

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Insuring Paragraph No. 3 insures against loss from the violation of covenants or restrictions contained in the condominium documents or the existence of rights of reverter or powers of termination in those documents.

**First**, the condominium declaration must not contain any provisions for the reversion of Title due to violation of the covenants contained in it. Similarly, no power of termination must exist. To determine this, you must be sure that all of the restraints against use of the premises are in the form of covenants rather than conditions. A declaration violates this requirement if it contains any statement that the unit is owned “on the condition that” certain acts not occur. Similarly, provisions that the unit may be owned “as long as” certain conditions exist or certain events do not occur should be viewed as violating this requirement.

**Second**, you must determine that there are no existing violations of covenants by the unit owner which affect the unit, the common elements, or any other physical improvements which are subject to the declaration. A lender acquiring the unit in a foreclosure will suffer a loss if it has to spend money correcting these problems. Examples would be the removal of walls within the unit contrary to the provisions of the declaration, and the unauthorized modification of balconies which constitute limited common elements. You are authorized to rely on an affidavit from the unit owner that no such unauthorized modifications exist where you are issuing the endorsement to a loan policy on a residential condominium unit. You should consult with the Company’s underwriting adviser where a commercial condominium is involved.

Insuring Paragraph No. 4 is where the two endorsements differ. In many states a properly imposed HOA assessment can have super lien priority, which means that it might be treated like the lien for taxes, and have priority over subsequently filed mortgages, or it might be inchoate or “hidden” like a mechanic’s or construction lien and the priority of the assessment could date back to the passing of a resolution by the board approving work to be done or an assessment to be imposed, even though the contracts or actual assessments come later.

The ALTA 4-06 insures against loss if the assessment liens of the condominium association have priority over the lien of the Insured Mortgage. **In order to provide this coverage the declaration or state law must provide that the lien of the mortgage to be insured is prior to the lien for unpaid condominium assessments.** In most cases the declaration or state law will provide that only a first mortgage lender’s lien is superior to the association’s lien for charges assessed after the recording of the mortgage or deed of trust. In such cases, a second or lower priority lender would not be protected from assessment liens, and the 4-06 could not provide for such protection.
be given. In those situations you would need to issue the 4.1-06, which merely insures there are no liens *due and unpaid* on Date of Policy. The 4.1-06 is also the endorsement form to be used with an Owner’s Policy.

To issue the ALTA 4.1-06, you must determine that all charges or assessments provided for in the condominium statutes and condominium documents, which are due, have been paid. If there is a ground lease or recreation lease which the unit owner or association is obligated to pay, you must determine that all charges are current.

**Insuring Paragraph No. 5** insures against loss if the condominium unit is not a separate parcel from all other units for real estate tax purposes. If it is not a separate parcel, the payment of taxes which would otherwise discharge the tax lien on the unit and its share of the common elements each year will not do so. An ensuing tax foreclosure would require payment of the taxes on the entire project in order to prevent the owner from losing title to the unit and the lender from losing its mortgage lien. Moreover, the lender’s ownership of the unit upon a foreclosure would leave the lender with the recurring problem of making payment of taxes due on the entire project in order to keep its unit.

**First**, the law of the state in which the condominium is located must provide for the separate taxation of all condominium units. This is the usual case. However, if the law does not so provide, then paragraph 5 must be deleted.

**Second**, you must determine that the local tax assessor is, in fact, assessing each unit in the condominium project as a separate tax parcel.

**Insuring Paragraph No. 6** insures against loss because of both currently existing encroachments and those which may be unintentionally created in the future. The problem of present encroachments results from the construction of the improvements after the filing of the declaration. If the structures are not built exactly in the places shown on the map, there can be an encroachment of common elements into the space provided for airspace units, and vice versa. The conventional sort of encroachment of improvements over easements or over the property line can also result.

The future encroachment problem would result from the rebuilding of the condominium project after a fire or other casualty. If the new structures are not built precisely where the map shows they should be, an encroachment into the airspace of one or more unit owners can result. The units might also encroach into areas provided for common elements.
The declaration must provide an easement for any projection of units onto common elements, or common elements into units. This provision must be effective for both present problems and those which may arise in the future from rebuilding, expansion or alteration.

As to the ordinary kinds of encroachments noted above, you must have an adequate survey or inspection which shows no such problems exist. If they do, you should modify the coverage of the endorsement so as to take exception to them. One way to do this would be to raise exceptions for these matters in Schedule B, Part I of the policy and note on the endorsement that this paragraph is subject to those exceptions.

Insuring Paragraph No. 7 covers the right of first refusal which is often contained in condominium projects. If the right is properly exercised, it may defeat the Title of a borrower who had not procured a waiver or relinquishment. This, in turn, might extinguish the lien of the Insured Mortgage.

There must either be no provision in any of the condominium documents for a right of first refusal or you must require and receive a proper waiver or relinquishment of it before insuring the transaction. If a waiver or relinquishment is involved, you must be sure it comes from the proper party or parties. The waiver by the condominium association should not be relied on to accomplish a waiver by the unit owners, if the right runs in their favor.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.
ENDORSEMENT
Attached to Policy No. ___________

Issued By
[FNTG BRAND]

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

1. The failure of the unit identified in Schedule A and its common elements to be part of a condominium within the meaning of the condominium statutes of the jurisdiction in which the unit and its common elements are located.

2. The failure of the documents required by the condominium statutes to comply with the requirements of the statutes to the extent that such failure affects the Title to the unit and its common elements.

3. Present violations of any restrictive covenants that restrict the use of the unit and its common elements and that are contained in the condominium documents or the forfeiture or reversion of Title by reason of any provision contained in the restrictive covenants. As used in this paragraph 3, the words “restrictive covenants” 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 in the Public Records at Date of Policy and is not excepted in Schedule B.

4. The priority of any lien for charges and assessments provided for in the condominium statutes and condominium documents at Date of Policy over the lien of any Insured Mortgage identified in Schedule A.

5. The failure of the unit and its common elements to be entitled by law to be assessed for real property taxes as a separate parcel.

6. Any obligation to remove any improvements that exist at Date of Policy because of any present encroachments or because of any future unintentional encroachment of the common elements upon any unit or of any unit upon the common elements or another unit.

7. The failure of the Title by reason of a right of first refusal to purchase the unit and its common elements that was exercised or could have been exercised 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]
[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 4-06
(Condominium) (Rev. 02/03/10)
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ENDORSEMENT
Attached to Policy No. ____________

Issued By
[FNTG BRAND]

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

1. The failure of the unit identified in Schedule A and its common elements to be part of a condominium within the meaning of the condominium statutes of the jurisdiction in which the unit and its common elements are located.

2. The failure of the documents required by the condominium statutes to comply with the requirements of the statutes to the extent that such failure affects the Title to the unit and its common elements.

3. Present violations of any restrictive covenants that restrict the use of the unit and its common elements and that are contained in the condominium documents or the forfeiture or reversion of Title by reason of any provision contained in the restrictive covenants. As used in this paragraph 3, the words “restrictive covenants” 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 in the Public Records at Date of Policy and is not excepted in Schedule B.

4. Any charges or assessments provided for in the condominium statutes and condominium documents due and unpaid at Date of Policy.

5. The failure of the unit and its common elements to be entitled by law to be assessed for real property taxes as a separate parcel.

6. Any obligation to remove any improvements that exist at Date of Policy because of any present encroachments or because of any future unintentional encroachment of the common elements upon any unit or of any unit upon the common elements or another unit.

7. The failure of the Title by reason of a right of first refusal to purchase the unit and its common elements which was exercised or could have been exercised 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]
[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 4.1-06
(Condominium) (Rev. 10/16/08)
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PLANNED UNIT DEVELOPMENT
ALTA ENDORSEMENT FORMS 5-06 and 5.1-06

PURPOSE

These endorsements provide affirmative coverage for lenders loaning on the security of units in a Planned Unit Development, or PUD. While designed for policies on individual residences in PUDs, they can be used in any situation where a homeowners association agreement or other type of master agreement is recorded. Affirmative coverage is provided against loss caused by violation of restrictions or by the existence of certain kinds of restrictions. In addition, both cover loss from enforced removal of buildings by reason of encroachments and from failure of Title caused by the exercise of any right of first refusal. The ALTA 5-06 insures against loss from lack of priority of the mortgage lien over the lien for homeowners’ association assessments. The ALTA 5.1-06 differs in that there is no insurance of priority over future assessments in Paragraph 2 of the 5.1-06; instead it only covers unpaid assessments at date of policy. In that regard, the 5.1-06 is appropriate for use where the agreement or applicable law do not allow insurance of priority of the Insured Mortgage. The ALTA 5.1-06 is also the appropriate form for use with an Owners Policy.

SECTION OF THE POLICY AMENDED BY ENDORSEMENT

The provisions of these endorsements expand coverage of the policies as described below. The coverages do overlap coverages afforded in the CLTA 100 and ALTA Endorsement Series 9.

BASIS FOR PROVIDING COVERAGE

Insuring Clause No. 1 provides coverage against loss resulting from violation of restrictive covenants affecting the Land. It also covers the lender against loss because covenants exist which would cause a forfeiture of the Title if violated. This latter coverage is effective whether or not the violation occurs. It is designed to cover losses by the lender if the loan cannot be sold due to the existence of such a covenant.

The coverage of this clause may be given only where one or more of the following circumstances exist:

1. No covenant, condition or restriction appears in your title examination; or
2. Any covenant or restriction which does appear does not contain any provision for reversion of Title or any power to terminate the Title upon violation;

and one or more of the following circumstances exists:

a. None of the covenants or restrictions are enforceable under state or federal laws. CAUTION: Extra-Hazardous Risk is involved and you must receive the approval of the Company’s underwriting adviser to use this as the basis of issuance in any case other than covenants, conditions or restrictions based on race, color, religion, sex, handicap, familial status, or national origin.

b. The covenants and restrictions provide that the kind of mortgage lien you are insuring is protected against the effect of any violation. NOTE: MOST OFTEN, ONLY FIRST MORTGAGE LIENS ARE PROTECTED.

c. The covenants or restrictions relate only to physical characteristics of the property or improvements on it and you have an adequate current survey or inspection which discloses there are no violations.

IF YOU FIND ANY CONDITIONS IN YOUR EXAMINATION OF TITLE, YOU MUST NOT ISSUE THIS ENDORSEMENT unless the condition is based upon race, color, religion, sex, handicap, familial status, or national origin, since conditions based on these characteristics are not enforceable under state and federal law.

Statements to the effect that the property is owned “on the condition that” certain things not occur or “as long as” a certain state of facts exist create conditions on the ownership of the Land. Though not commonly found in planned developments, they are extremely dangerous because of their effect on title. If you are in doubt as to the existence of a condition, contact the Company’s underwriting adviser.

Insuring Clause No. 2 is where the two endorsements differ.

The ALTA 5-06 provides coverage for the priority of the lien of the Insured Mortgage over the lien of assessments by a homeowner’s association. This would not be covered by the policy without an endorsement because the policy should have an exception in Schedule B for the covenants or restrictions which create the lien for these assessments.
This coverage may be given only if state law or the covenants and restrictions, which provide for the lien for assessments, also provide that the lien of the mortgage you are insuring is prior to the assessment lien. The usual provision is that a first mortgage lender’s lien is superior to the association’s lien for charges assessed after the recording of the mortgage or deed of trust. Such a provision would not protect a second or lower priority lender, and in those situations you would need to issue the 5.1-06, which merely insures there are no liens due and unpaid on Date of Policy. The 5.1-06 is also the appropriate form to issue with an Owner’s Policy.

To issue the ALTA 5.1-06, you must determine that all charges or assessments provided for in any documents shown in Schedule B, which are due, have been paid. If there is a ground lease or recreation lease which the PUD owner or HOA association is obligated to pay, you must determine that all charges are current.

**Insuring Clause No. 3** provides coverage against forced removal of improvements. This is an element of loss covered by the ALTA Loan policies which have no exceptions for survey matters in Schedule B.

This coverage should be given only when you have an adequate current survey or inspection of the Land and improvements which discloses there are no encroachments of improvements over boundary lines or easements. Since boundary walls and fences are excluded, you need not be concerned with them for purposes of issuing this endorsement. However, if you are issuing an ALTA Loan Policy without any exceptions for survey matters in Schedule B, you must be concerned with boundary walls and fences because the policy will provide coverage over them with or without this endorsement.

**Insuring Clause No. 4** covers loss because of failure of Title of the borrower resulting from exercise of a right of first refusal which existed at the Date of Policy, whether such exercise was before or after that date. The consequent failure of Title to property acquired by the insured lender through foreclosure or deed-in-lieu-of-foreclosure would also be covered. The policy would not cover these matters without this endorsement because an exception should appear in Schedule B for the instrument or instruments creating this right.

You must determine that there are no provisions in any of the documents affecting the Title which create a right of first refusal to purchase the Land. This kind of provision might be included in the covenants and restrictions of the project itself. If you do find such a right, you must require a proper waiver or relinquishment from the proper person or party prior to issuing this.
endorsement. A waiver by the homeowner’s association is not likely to be sufficient as a waiver by any of the property owners if the right runs in their favor. Similarly, an association’s waiver would do no good where the right was in a governmental body, as is the case for certain low income multifamily housing developments.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

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ENDORSEMENT

Attached to Policy No. ______________

Issued By
[FNTG BRAND]

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

1. Present violations of any restrictive covenants referred to in Schedule B that restrict the use of the Land or the forfeiture or reversion of Title by reason of any provision contained in the restrictive covenants. As used in this paragraph 1, the words “restrictive covenants” 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 in the Public Records at Date of Policy and is not excepted in Schedule B.

2. The priority of any lien for charges and assessments in favor of any association of homeowners which are provided for in any document at Date of Policy referred to in Schedule B over the lien of any Insured Mortgage identified in Schedule A.

3. The enforced removal of any existing structure on the Land (other than a boundary wall or fence) because it encroaches onto adjoining land or onto any easements.

4. The failure of the Title by reason of a right of first refusal to purchase the Land which was exercised or could have been exercised 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]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 5-06
(Planned Unit Development) (Rev. 02/03/10)
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ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

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

1. Present violations of any restrictive covenants referred to in Schedule B that restrict the use of the Land or the forfeiture or reversion of Title by reason of any provision contained in the restrictive covenants. As used in this paragraph 1, the words “restrictive covenants” 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 in the Public Records at Date of Policy and is not excepted in Schedule B.

2. Any charges or assessments in favor of any association of homeowners, which are provided for in any document referred to in Schedule B, due and unpaid at Date of Policy.

3. The enforced removal of any existing structure on the Land (other than a boundary wall or fence) because it encroaches onto adjoining land or onto any easements.

4. The failure of the Title by reason of a right of first refusal to purchase the Land that was exercised or could have been exercised 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]

[FNTG BRAND]

BY: ______________________________

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VARIABLE RATE MORTGAGE
ALTA ENDORSEMENT - FORMS 6-06, 6.1 and 6.2-06

PURPOSE

These endorsements were created to insure the validity and priority of the mortgage liens securing loans with variable interest rates. The ALTA 6-06 is the basic variable interest rate endorsement. The ALTA 6.1 is designed for use where lenders face regulatory requirements which must be followed in order to make such loans. (Note: there is no 2006 version of the ALTA Form 6.1). The ALTA 6.2-06 was created to the validity and priority of mortgage liens as security for interest at variable rates and as security for additional principal created by the negative amortization of unpaid interest.

CAUTION: THE LAW IN MANY STATES PROHIBITS OR GREATLY IMPAIRS THE ENFORCEMENT OF THE KINDS OF LOANS TO WHICH THE ALTA 6.2-06 ENDORSEMENT IS APPLICABLE. THEREFORE, YOU SHOULD NOT ISSUE IT WITHOUT THE APPROVAL OF THE COMPANY’S UNDERWRITING ADVISER.

SECTION OF POLICY AMENDED BY ENDORSEMENT

Section 3(d) of the Exclusions from Coverage of all of the ALTA Loan Policies is modified by each of these endorsements.

BASIS FOR PROVIDING COVERAGE

Endorsement Form 6-06

You are authorized to issue this endorsement only when all of the following requirements are met:

1. The Insured Mortgage contains a clear statement that it secures interest at a variable rate.

2. It is not sufficient for the mortgage or deed of trust to state merely that the interest secured is pursuant to the terms of the note or other security agreement.
3. The interest rate varies according to **a formula disclosed in the Insured Mortgage** which is **based on an index that cannot be easily manipulated by the lender** to change the rate of interest it receives.

**Examples of indices which comply with this requirement are:**

- Federal cost of funds indices,
- Treasury bill interest rates,
- The Prime rate of a substantial local, national or international bank other than the lender (if a bank); **and**
- The Prime rate of the lending bank (if a bank loan), if the bank is a large commercial bank.

4. The documents comply with all requirements of any state statute which governs validity and priority of mortgages securing variable interest rate loans.

**Endorsement Form 6.1**

The coverage of this endorsement is identical to the coverage of ALTA 6-06 except it adds an exception to coverage. It does not cover loss resulting from the lender’s failure to comply with statutes or regulations specified in the endorsement which govern the ability of the lender to make a variable interest rate mortgage.

While this endorsement has not been withdrawn by the ALTA, it is today mostly a matter of historical interest. The relaxation of federal and state regulation on lending institutions with respect to variable interest rate mortgages has drastically reduced its utility. Any request you receive for this endorsement should be discussed with the Company’s underwriting adviser.

**Endorsement Form 6.2-06 (Variable Rate –Negative Amortization)**

(See **CAUTION** at beginning of this Section 6)

**Preliminary Considerations**
This endorsement combines the provisions of ALTA 6-06 with provisions covering the security of negative amortization of interest.

Negative amortization is one name commonly given to a process which adds interest which is due and unpaid to the principal balance of the loan. It is also called “interest on interest”. Amortization is the process which reduces the principal balance as payments are made on a loan.

Negative amortization loans are usually structured so that the principal balance increases rather than declining over time. The most common arrangement is to allow the borrower to make its monthly payments as if the interest rate were lower than it actually is. This produces a deficit in the interest payments which is then added to the principal. Interest is then charged on the new principal amount, thus compounding interest. The borrower makes lower payments in the initial years of the loan and higher payments at the end. This may be a benefit to borrowers who are likely to have greater income in later years, such as first time home purchasers.

**Endorsement Coverage**

The coverage for the variable rate aspect of the Insured Mortgage is identical to that provided in the ALTA 6-06.

In addition, this endorsement provides the following coverage for the negative amortization aspects:

- coverage against loss if the lien of the Insured Mortgage is rendered unenforceable as a result of its negative amortization provisions
- coverage against loss if the lien of the Insured Mortgage loses its priority as security for the principal of the loan, including interest added through negative amortization because of its negative amortization provisions

This endorsement may be issued only if all of the following requirements are met:

1. All of the requirements for issuing an ALTA 6-06 have been met.
2. The Insured Mortgage clearly states that it secures a loan providing for negative amortization or adding unpaid interest to principal.

3. The law of the state in which the Land lies does not prohibit the making of negative amortization loans or the compounding of interest. This may be based on a different public policy than the one on which usury is based.

4. The amount of interest which will be charged as a result of the negative amortization program does not appear to be unconscionably high as that determination is generally understood under state law.

If any transaction appears to you to require the payment of extreme rates or amounts of interest, you should contact the Company's underwriting adviser.

The policy is issued in a face amount which reflects the increased principal amount of the loan as a result of negative amortization, often up to 125% of the original principal amount of the mortgage, but not in excess of the amount allowed by any state insurance laws or regulations.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company's underwriting adviser before complying with any request for a modification.
ENDORSEMENT

Attached to Policy No. ____________

Issued By
[FNTG BRAND]

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

1. The invalidity or unenforceability of the lien of the Insured Mortgage resulting from its provisions that provide for changes in the rate of interest.

2. Loss of priority of the lien of the Insured Mortgage as security for the unpaid principal balance of the loan, together with interest as changed in accordance with the provisions of the Insured Mortgage, which loss of priority is caused by the changes in the rate of 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 the formula provided in the documents secured by the Insured Mortgage at Date of Policy.

This endorsement does not insure against loss or damage based upon:

1. usury, or

2. any consumer credit protection or truth in lending law.

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.

[FNTG BRAND]

BY: ______________________________
For use with 1992 policies or older

ENDORSEMENT
Attended to Policy No. ______

Issued by
[FNTG BRAND]

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

1. The invalidity or unenforceability of the lien of the insured mortgage resulting from the provisions therein which provide for changes in the rate of interest.

2. Loss of priority of the lien of the insured mortgage as security for the unpaid principal balance of the loan, together with interest as changed in accordance with the provisions of the insured mortgage, which loss of priority is caused by the changes in the rate of 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 the formula provided in the insured mortgage at Date of Policy.

This endorsement does not insure against loss or damage by reason of the failure of the insured to comply with the following statutes or regulations concerning variable rate mortgages:

This endorsement does not insure against loss or damage based upon (a) usury, or (b) any consumer credit protection or truth in lending law.

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]

[FNTG BRAND]

BY:___________________________________
ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

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

1. The invalidity or unenforceability of the lien of the Insured Mortgage resulting from its provisions that provide for (a) interest on interest, (b) changes in the rate of interest, or (c) the addition of unpaid interest to the principal balance of the loan.

2. Loss of priority of the lien of the Insured Mortgage as security for the principal balance of the loan, including any unpaid interest which was added to principal in accordance with the provisions of the Insured Mortgage, interest on interest, or interest as changed in accordance with the provisions of the Insured Mortgage, which loss of priority is caused by (a) changes in the rate of interest, (b) interest on interest, or (c) increases in the unpaid principal balance of the loan 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 the formula provided in the loan documents secured by the Insured Mortgage at Date of Policy.

This endorsement does not insure against loss or damage based upon:

1. usury, or

2. any consumer credit protection or truth in lending law.

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]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 6.2-06
(Variable Rate, Negative Amortization) (Rev. 10/16/08)
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MANUFACTURED HOUSING
ALTA ENDORSEMENT – FORMS 7-06, 7.1-06 and 7.2-06

PURPOSE

These endorsements clarify whether or not a manufactured housing unit ("MHU") located on the Land is covered by the insurance policy. The ALTA 7-06 adds the MHU to the definition of Land. In addition the ALTA 7.1-06 and the ALTA 7.2-06 insure against loss or damage if the MHU is not located on the subject premises, if there are UCC type liens filed against the MHU and if the MHU does not constitute real property under state law. The ALTA 7.1-06, which is the form to be used with a Loan Policy, also insures that the Insured Mortgage can be enforced in a single foreclosure action against both the MHU and the Land.

SECTION OF POLICY AMENDED BY ENDORSEMENT

These endorsements do not amend any section of the policy. However, they do modify the impact on coverage of the definition of "Land" contained in Conditions No. 1(g) of the ALTA Owner’s Policy and No. 1(i) of the ALTA Loan Policy. Because of this definition, the policies normally only insure titles to or mortgage liens on a MHU if the MHU is considered a fixture under state law. Issuance of these endorsements constitutes the Company’s recognition that the MHU on the Land is covered by the policy, and, in the case of the ALTA 7.1-06 and the 7.2-06, against loss occasioned by the failure to meet state requirements for conversion of the MHU from personal to real property.

BASIS FOR PROVIDING COVERAGE

ALTA 7-06 (inclusion of MHU within the definition of Land)

You may issue this endorsement if all of the following requirements are met:

1. There must be no state law which would make it impossible for the MHU to become real property.

CAUTION: THE COMPANY'S UNDERWRITING ADVISOR SHOULD BE CONSULTED FOR INSURABILITY IN YOUR STATE.
2. You must determine that the owner of the underlying Land is the owner of the MHU. This should be done by examining the current motor vehicle title certificate which was issued when the unit was purchased or registered in the last state of residence of the owner.

3. You must determine that the MHU is actually located on the Land.

4. You must determine that the unit is permanently affixed to the Land. To be permanently affixed, the wheels and axles of the unit must have been removed. It must also be hooked up to public utilities such as gas or electricity.

5. You must determine whether any security interests encumbering the unit at the time it was affixed to the Land still exist. If they do, you must require their release, or you must show them as an exception in Schedule B of any Owner’s Policy and Schedule B, Part I of any ALTA Loan Policy which you issue and to which you add the following:

   This is a matter covered under the Uniform Commercial Code or under the motor vehicle registration laws of the state of residence of the owner of the unit.

The problem of existing security interests is complex. State law generally treats MHUs as motor vehicles, at least until they are affixed to a parcel of land. While they are motor vehicles, liens which encumber them must be filed in the place designated for motor vehicles. These are shown on the most current vehicle title certificates. Even after becoming affixed, they may still retain their motor vehicle registration in some states. Thus, examination of the vehicle title certificate may be required each time a transaction takes place after affixation to the land. It is possible such laws may prevent the unit from ever being considered real property. Consult the Company’s underwriting advisor for the status of the law in your state.

Prior to being permanently affixed, mobile homes are also personal property subject to Article 9 of the Uniform Commercial Code, which relates to security interests. Therefore, a UCC search may have to be done both in the capitol of the state where the Land is located and, under some circumstances, in the capitol of the state where the unit was last registered. For searching requirements, consult the Company’s underwriting adviser.

6. You must add a notation in the legal description in Schedule A identifying the mobile home unit as a part of the property insured. The unit’s make and serial number should be included.
ALTA 7.1-06 and 7.2-06 Conversion
You may issue this endorsement if all of the following requirements are met:

1. There must be no state law which would make it impossible for the MHU to become real property.

CAUTION: THE COMPANY’S UNDERWRITING ADVISOR SHOULD BE CONSULTED FOR INSURABILITY IN YOUR STATE.

2. You must determine that the MHU has become real property under state law, and that all procedures necessary for the conversion of the MHU from personal property to real property have been accomplished. This could include the surrender and cancellation of the motor vehicle title.

CAUTION: THE COMPANY’S UNDERWRITING ADVISOR SHOULD BE CONSULTED FOR INSURABILITY IN YOUR STATE.

3. You must determine that the owner of the underlying Land is the owner of the MHU. This should be done by examining the current motor vehicle title certificate issued when the unit was purchased or registered in the last state of residence of the owner, or by verifying the chain of title since the conversion discussed at No. 2 above.

4. You must determine that the MHU is actually located on the Land. Appraisal, survey, inspection, or affidavit are a few of the ways to accomplish this. Consult the Company’s underwriting advisor for the specific requirements for your state.

5. You must determine that the unit is permanently affixed to the Land. To be permanently affixed, the wheels and axles of the unit must have been removed. It must also be hooked up to public utilities such as gas or electricity.

6. You must determine whether any security interests encumbering the unit at the time it was affixed to the Land still exist. If they do, you must require their release, or you must show them as an exception in Schedule B of any Owner’s Policy and Schedule B, Part I of any ALTA Loan Policy which you issue, and add the following:

This is a matter covered under the Uniform Commercial Code or under the motor vehicle registration laws of the state of residence of the owner of the unit.

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The problem of existing security interests is complex. State law generally treats mobile homes as motor vehicles, at least until they are removed from the vehicle title registration scheme and/or affixed to a parcel of land. While they are motor vehicles, liens which encumber them must be filed in the place designated for motor vehicles. These are shown on the most current vehicle title certificates. *Even after becoming affixed, they may still retain their motor vehicle registration in some states.* Thus, examination of the vehicle title certificate may be required each time a transaction takes place after affixation to the Land. *It is possible such laws may prevent the unit from ever being considered real property; consult the Company’s underwriting advisor for the status of law in your state.*

Prior to being permanently affixed, mobile homes are also personal property subject to Article 9 of the Uniform Commercial Code, which relates to security interests. Therefore, a UCC search may have to be done both in the capitol of the state where the Land is located and, under some circumstances, in the capitol of the state where the unit was last registered. For searching requirements, consult the Company’s underwriting advisor.

7. You may need to add a notation in the legal description in Schedule A identifying the MHU as a part of the property insured. The unit’s make and serial number should be included. Refer to the Company’s underwriting advisor for the specific requirements for your state.

8. You must verify with the Company’s underwriting adviser for your state that the Insured Mortgage will be enforceable against the MHU within any foreclosure action against the balance of the real property.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting advisor before complying with any request for a modification.

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ENDORSEMENT

Attached to Policy No. ____________

Issued By
[FNTG BRAND]

The term "Land" includes the manufactured housing unit located on the land described in Schedule A 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]

[FNTG BRAND]

BY: ______________________________
ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

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,

   (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]

[FNTG BRAND]

BY:

ALTA Endorsement Form 7.1-06
(Manufactured Housing – Conversion; Loan) (6/17/06)
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ENDORSEMENT

Attached to Policy No. ___________

Issued By

[FNTG BRAND]

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 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,
      (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]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 7.2-06
(Manufactured Housing – Conversion; Owners) (6/17/06)
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ENVIRONMENTAL PROTECTION LIEN
COMMERCIAL ENVIRONMENTAL LIEN
ALTA ENDORSEMENT FORMS 8.1-06 and 8.2-06

PURPOSE

These endorsements provide affirmative insurance that the lien of the Insured Mortgage has priority over unrecorded or unfiled environmental protection liens.

SECTION OF POLICY AMENDED BY ENDORSEMENT

This endorsement reiterates the coverage afforded by Covered Risk 5 (d). In addition, the ALTA 8.1-06, for use with loan policies insuring residential mortgages, adds affirmative coverage against loss caused by priority over the Insured Mortgage of any environmental protection lien created by a state statute, if the statute is not disclosed in the endorsement or the lien is not shown as an exception in Schedule B of the policy. The ALTA 8.2-06, which was developed for commercial property, does not contain this additional coverage.

BASIS FOR PROVIDING COVERAGE

You may issue the ALTA 8.1-06 endorsement to any ALTA Loan Policy covering a residential mortgage loan (1 to 4 family) if all of the following requirements are met:

1. No environmental liens are recorded or filed which affect the Title to the Land which is described in the policy; or

2. You have taken an exception in Schedule B to any environmental liens which have been recorded or filed.

3. You must insert the citation to any state statute which creates secret or hidden environmental protection liens or environmental liens which have “super priority”. By this we mean a statute that either:

   A. Does not require the filing of any notice of the lien in the county recorder’s office where the land is located; or
B. Gives the lien a priority over all outstanding liens or encumbrances.
A space for this citation is provided at the end of paragraph (b) of the endorsement. If there are no citations for your state, indicate that by inserting the word “none” in the blank.

You must consult the Company’s underwriting adviser for instructions as to which, if any, citations are applicable.

CAUTION: NOTICES OF FEDERAL ENVIRONMENTAL LIENS CREATED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, CLEANUP AND LIABILITY ACT (CERCLA) ARE REQUIRED TO BE RECORDED IN COUNTY RECORDERS’ OFFICES ONLY IF THE STATE HAS ADOPTED THE UNIFORM FEDERAL LIEN REGISTRATION ACT OR SIMILAR STATUTE. OTHERWISE, CONSTRUCTIVE NOTICE OF THE LIENS EXISTS IF THE NOTICE IS FILED WITH THE CLERK OF THE U.S. DISTRICT COURT FOR THE DISTRICT IN WHICH THE LAND SUBJECT TO THE LIEN IS LOCATED.

Therefore, if the state in which the Land lies has not adopted such an act, you must search the records in the office of the Clerk of the U.S. District Court for such liens before issuing this endorsement.

You may issue the ALTA 8.2-06 (Commercial Environmental Lien) endorsement to any ALTA Loan Policy covering a commercial mortgage loan (including multi-family residential), or an ALTA Owners Policy if all of the following requirements are met:

1. You have checked BOTH the office you would normally check under state law and the District Court for the District in which the Land is located, even if your state has adopted the Uniform Federal Lien Registration Act or similar statute as discussed above.

2. No environmental liens are recorded or filed which affect the Title to the Land which is described in the policy; or

3. You have taken an exception in Schedule B to any environmental liens which have been recorded or filed.
As mentioned earlier, the commercial form does not include the second coverage, and that should **not** be added without consulting your Company underwriting advisor.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

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ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

The insurance afforded by this endorsement is only effective if the Land is used or is to be used primarily for residential purposes.

The Company insures against loss or damage sustained by the Insured by reason of lack of priority of the lien of the Insured Mortgage over

(a) any environmental protection lien that, at Date of Policy, is recorded in those 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, or is filed in the records of the clerk of the United States district court for the district in which the Land is located, except as set forth in Schedule B; or

(b) any environmental protection lien provided by any state statute in effect at Date of Policy, except environmental protection liens provided by the following state statutes:

FILL IN

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]

[FNTG BRAND]

BY: ________________________________

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ENDORSEMENT

Attached to Policy No. __________

Issued By
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured by reason of an environmental protection lien that, at Date of Policy, is recorded in the Public Records or filed in the records of the clerk of the United States district court for the district in which the Land is located, unless the environmental protection lien is set forth as an exception 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]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 8.2-06
(Commercial Environmental Lien) (10/16/08)
©American Land Title Association
SERIES 9
ALTA ENDORSEMENTS 9.06 to 9.10.06
[THE ALTA 9.4-06 AND 9.5-06 HAVE BEEN WITHDRAWN EFFECTIVE 4/2/2012]

PURPOSE

In General

It is common for institutional lenders to require certain additional title insurance coverages for loans secured by first mortgages on improved real property when these mortgages are to be sold on the secondary market. The original ALTA Form 9 was designed to provide those coverages in a single, inclusive form. It afforded the lender various protections with respect to private property restrictions, building setback lines, encroachments and excepted minerals. Forms for use with owner’s policies were subsequently adopted also.

In 2012 ALTA completely revised all of the endorsements in the series, withdrawing the 9.4-06 and 9.5-06 and adding 3 new forms - the 9.6-06, 9.7-06, and 9.8-06. In 2013 the 9.9-06 and the 9.10-06 were adopted. We will discuss each form and the corresponding underwriting requirements.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

These endorsements expand policy coverage by minimizing the risk to the Insured with respect to certain policy exclusions or exceptions.

REMINDER: All exceptions for documents in our standard form policies should be characterized appropriately. For example:

The matters contained in the document shown below which, among other things, contains or provides for: [establishment of easements] [liens for liquidated damages] [private charges or assessments] [and] [option to purchase, a right of first refusal or the prior approval of a future purchaser or occupant] and covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

Entitled: ^
Recording Date: ^
Recording No: ^
The form for showing exceptions varies from state to state, but it should always disclose any of the Private Rights (as discussed at ALTA 9.6-06 and 9.9-06 below) and other appropriate terms and provisions, and include the mandated carve out for “omitted” provisions.

**BASIS FOR PROVIDING COVERAGE**

**ALTA Form 9-06 (Restrictions, Encroachments, Minerals - Loan Policy)**

**ALTA Form 9.3-06 (Covenants, Conditions and Restrictions-Loan Policy)**

**ALTA Form 9.7-06 (Restrictions, Encroachments, Minerals-Land Under Development-Loan Policy)**

**ALTA Form 9.10-06 (Restrictions, Encroachments, Mineral-Current Violations-Loan Policy)**

Forms 9-06, 9.10-06 and 9.7-06 most closely resemble the coverages given under the old loan policy endorsement forms. The revised 9-06 is used for existing Improvements and the new 9.7-06 is used for Land under development, by expanding the coverages to Future Improvements, as defined therein. The 9.10-06 is used when violation of a Covenant could result in forfeiture or reversion, but there is no current violation. The revised 9.3-06 has no mineral or encroachment coverage found at section 4 in the other two endorsements.

The following is a discussion of the various provisions:

- **3.a.** – All give coverage for loss by reason of a violation of a Covenant that divests the lien of the Insured Mortgage or impairs the priority of the Insured Mortgage, or affects the Title of the lender after foreclosure. An example of such a loss would be as the result of forfeiture or reversion provisions in a covenant. Form 9.10-06 is used when a future violation could result in the forfeiture or reversion, there is no current violation of any such Covenants.

- **3.b.** -Coverage is given over any violation of a Covenant unless an exception in Schedule B identifies the violation.

- **3.c.** -Coverage is given for enforced removal for a building set back violation unless an exception in Schedule B identifies the violation.

- **3.d.** -Coverage is given for notice of a violation of a Covenant that relates to environmental protection but only to the extent of the violation in the notice unless an exception in Schedule B identifies the notice of violation.

- **4.a.**-[In Forms 9-06, 9.10-06 and 9.7-06 only] Coverage for an encroachment onto neighboring property, onto an easement, or onto our Land by a neighboring Improvement unless an exception in Schedule B identifies any such encroachment.
• 4.b.-[In Forms 9-06 and 9.10-06] Enforced removal of our Improvement if it encroaches over the boundary line (even if such encroachment is shown on Schedule B).
• 4.c.i. [in Form 9-06 and 9.10-06] or 4.b.i [in Form 9.7-06]-Damage to an Improvement that encroaches onto an easement resulting from the exercise of the right to maintain the easement (even if such encroachment is shown on Schedule B).
• 4.c.ii.[in Form 9-06 and 9.10-06] or 4.b.ii. [in Form 9.7-06] Damage to an Improvement resulting from the exercise of any mineral rights excepted in the legal description or on Schedule B.

UNDERWRITING GUIDELINES

For anything other than a policy insuring a residential 1-4 family loan an accurate current survey must be examined and reflected in the policy.

Coverage 3.a. may be given if any of the following situations apply:

• There are no covenants, conditions or restrictions.
• The covenants, conditions or restrictions are not enforceable under state or federal law.
• The restrictions contain a clause protecting the lien of a mortgage made in good faith and for value against a violation.
• Rights to enforce the restrictions have been waived or are subordinated to the Insured Mortgage.
• If there is a no CURRENT violation that could result in Forfeiture or reversion, but a FUTURE violation might result in the loss of priority or enforceability of the lien of the Insured Mortgage, the 9.10-06 must be used.

Coverage 3.b. may be given provided:

• There are no covenants, conditions or restrictions or
• it has been determined that either there are no violations that are enforceable, or
• all enforceable violations that have been disclosed by inspection, survey or other means are identified and excepted in Schedule B.

Coverage 3.c. may be given provided:

• There are no building setback lines shown on a recorded or filed plat of subdivision or
• it has been determined that either there are no violations that are enforceable, or
- all enforceable violations that have been disclosed by inspection, survey or other means are identified and excepted in Schedule B.

Coverage 3.d. may be given provided:

- Either there are no notices of violation of covenants, conditions and restrictions relating to environmental protection recorded or filed in the public records or the notices of violations are identified and excepted in Schedule B.

Coverage 4.a.i.[in Form 9-06, 9.10-06 and 9.7-06] may be given if any of the following situations apply:

- There are no encroachments onto adjoining land OR any such encroachments are identified in Schedule B.
- There are no easements excepted in Schedule B.
- There are no encroachments onto easements identified in Schedule B OR any such encroachments are identified in Schedule B.

Coverage 4.a.ii.[in Form 9-06, 9.10-06 and 9.7-06] may be given if any of the following situations apply:

- There are no encroachments onto the Land by neighbors’ Improvements OR any such encroachments are identified in Schedule B.

Coverage 4.b. Form 9-06 and 9.10-06 may be given if any of the following situations apply:

- There are no encroachments of Improvements onto neighboring land.
- There is an encroachment identified in Schedule B and with respect to the encroachment, the Company’s underwriting advisor has determined that it would be unlikely that there would be any attempted enforced removal or is satisfied that a state court would not deny the right to maintain the existing improvements because of adverse possession or other protections.

[See also Section 28 for encroachment coverage]

Coverage 4.c.i [in Form 9-06 and 9.10-06] or Coverage 3.b.i.[in Form 9.7-06] may be given if any of the following situations apply:
- There are no encroachments of an Improvement onto an easement
- The encroachment does not interfere with the right to maintain the easement for the purpose for which it was granted.

[See also Section 28 for encroachment coverage]

Coverage 4.c.ii [in Form 9-06] or Coverage 3.b.ii [in Form 9.7-06] may be given if any of the following situations apply:

- There is no separation of minerals from the surface estate by deed, lease or otherwise.
- There is a separate mineral estate but it does not include any rights of surface entry.
- Mineral rights, with rights of surface entry either expressed or implied, have been severed from the surface estate. However, the land and surrounding area is entirely improved with residential development. Under these circumstances, submit the request for coverage to the Company's underwriting advisor who will consider the risk based upon such things as the size of the parcel, use, (proposed or current), local zoning, ownership of minerals and the possibility of waiver of mineral rights.

[See also - Section 35 for mineral rights coverage]

ALTA Form 9.1–06 (Covenants, Conditions and Restrictions-Unimproved Land–Owner’s Policy)
ALTA Form 9.2–06 (Covenants, Conditions and Restrictions-Improved Land-Owner’s Policy)
ALTA Form 9.8–06 (Covenants, Conditions and Restrictions-Land Under Improvement–Owner’s Policy) [technically corrected by ALTA 12-3-12]

An accurate current survey must be examined and reflected in the policy

These 3 forms give various levels of coverage to an owner. They contain some but not all of the coverages in the loan policy forms. They do not contain coverage for encroachments or mineral rights. See Section 28 for encroachment coverage and Section 35 for mineral rights coverage. The following is a discussion of the various provisions:

- 3.a.-[in all Forms] Coverage is given over any violation of a Covenant unless an exception in Schedule B identifies the violation.
• 3.b. [in Form 9.2-06 and 9.8-06 only]-Coverage is given for enforced removal for a building set back violation unless an exception in Schedule B identifies the violation.

• 3.c. [in Form 9.2-06 and 9.8-06, it is coverage 3.b. in Form 9.1-06]-Coverage is given for notice of a violation of a Covenant that relates to environmental protection but only to the extent of the violation in the notice unless an exception in Schedule B identifies the notice of violation.

Coverage 3.a. may be given provided:

• There are no covenants, conditions or restrictions; or
• it has been determined that either there are no violations that are enforceable, or
• all enforceable violations that have been disclosed by inspection, survey, or other means are identified and excepted by description of such matter in Schedule B.

Coverage 3.b. [in Form 9.2-06 and 9.8-06] may be given provided:

• There are no building setback lines shown on a recorded or filed plat of subdivision; or
• It has been determined that either there are no violations that are enforceable, or
• all enforceable violations that have been disclosed by inspection, survey or other means are identified and excepted in Schedule B.

Coverage 3.c. [in Form 9.2-06 and 9.8-06] or 3.b. [in Form 9.1-06] may be given provided:

• Either there are no notices of violations of covenants, conditions and restrictions relating to environmental protection recorded or filed in the public records, or
• the notices of violations are identified and excepted in Schedule B.

ALTA Form 9.6–06 (Private Rights-Loan Policy)
ALTA Form 9.9–06 (Private Rights-Owners Policy)

This form addresses the existence of Private Rights within instruments which provide for covenants, conditions or restrictions (CCRs) and are excepted on Schedule B. These Private Rights are defined as:

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• Option to purchase
• Right of first refusal
• Right of prior approval of a future purchaser or occupant (often found in retail developments)
• Private Charge or assessment (such as home owners or other association fees or dues or private transfer fees, for example) NOTE: The 9.9-06 for Owners Policies does not contain this coverage.

The endorsement gives coverage over loss as a result of the enforcement of such a right as it affects the priority or enforceability of the lien of the Insured Mortgage, or affects the title of the lender after foreclosure.

Coverage may be given provided if:
• There are no recorded instruments that contain covenants, conditions or restrictions (CCRs) on the Land; or
• All recorded instruments which contain CCRs are examined and they contain no such Private Rights as shown above for Owners or Loan Policy usage. Do not rely upon the classification of the document in the commitment failing to identify such rights. All documents must be examined for these rights before the coverage can be given, or
• Any exception for an instrument that contains a Private Right is indicated in the blank at item 4. D. of the endorsement.
• If there are no such private rights in an instrument or there is no instrument as an exception, the blank at item 4.d. should be filled in with the word "NONE"
• Also- See REMINDER at beginning of this Section.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of Forms. If the endorsement is modified, the endorsement is not an ALTA Form and should not reference ALTA in the title. You must obtain the approval of the Company's underwriting advisor before complying with any request for a modification.

Charts:

<table>
<thead>
<tr>
<th>ALTA Endorsement</th>
<th>Original Title</th>
<th>New Revision</th>
</tr>
</thead>
<tbody>
<tr>
<td>9-06</td>
<td>REM (LP)</td>
<td>Restriction Encroachments Mineral (LP)</td>
</tr>
</tbody>
</table>

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9.1-06 REM (OP-Unimproved) CCR (OP-Unimproved Land)
9.2-06 REM (OP-Improved) CCR ((OP-Improved Land)
9.3-06 REM (LP) CCR (LP)
9.4-06 Decertified
9.5-06 Decertified
9.6-06 New Private Rights (LP)
9.7-06 New REM (LP-Land under development)
9.8-06 New CCR (OP-Land under Development)
9.9-06 New Private Rights (OP)
9.10-06 New REM-Current violations (LP)

Another way to classify the new forms:
Restrictions, Encroachments, Minerals
  ALTA 9-06 Loan Policy
  ALTA 9.7-06 Loan Policy- Land Under Development
  ALTA 9.10-06 Loan Policy- Current Violations
Covenants, Conditions, Restrictions:
  ALTA 9.1-06 Owner - Unimproved
  ALTA 9.2-06 Owner - Improved
  ALTA 9.8-06 Owner - Land Under Development
  ALTA 9.3-06 Loan Policy
Private Rights
  ALTA 9.6-06 Loan Policy
  ALTA 9.9-06 Owner

[See Section 28 for Encroachment coverages and Section 35 for Mineral coverages.]

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ENDORSEMENT
Attached to Policy No. ___________

Issued By

[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 5 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For the purposes of this endorsement only:
   a. “Covenant” means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
   b. “Improvement” means an improvement, including any lawn, shrubbery, or trees, affixed to either the Land or adjoining land at Date of Policy that by law constitutes real property.

3. The Company insures against loss or damage sustained by the Insured by reason of:
   a. A violation of a Covenant that:
      i. divests, subordinates, or extinguishes the lien of the Insured Mortgage,
      ii. results in the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage, or
      iii. causes a loss of the Insured’s Title acquired in satisfaction or partial satisfaction of the Indebtedness;
   b. A violation on the Land at Date of Policy of an enforceable Covenant, unless an exception in Schedule B of the policy identifies the violation;
   c. Enforced removal of an Improvement located on the Land as a result of a violation, at Date of Policy, of a building setback line shown on a plat of subdivision recorded or filed in the Public Records, unless an exception in Schedule B of the policy identifies the violation;
   d. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.

4. The Company insures against loss or damage sustained by reason of:
   a. An encroachment of:
      i. an Improvement located on the Land, at Date of Policy, onto adjoining land or onto that portion of the Land subject to an easement; or
      ii. an Improvement located on adjoining land onto the Land at Date of Policy,
   b. A final court order or judgment requiring the removal from any land adjoining the Land of an encroachment identified in Schedule B; or
   c. Damage to an Improvement located on the Land, at Date of Policy:
      i. that is located on or encroaches onto that portion of the Land subject to an 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; or
ii. resulting from the future exercise of a right to use the surface of the Land for the extraction or development of minerals or any other subsurface substances excepted from the description of the Land or excepted in Schedule B.

5. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:
   a. any Covenant contained in an instrument creating a lease;
   b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land;
   c. except as provided in Section 3.d, any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances;
   d. contamination, explosion, fire, fracturing, vibration, earthquake or subsidence; or
   e. negligence by a person or an Entity exercising a right to extract or develop minerals or other subsurface substances.

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]

[FNTG BRAND]

BY: ______________________________
ENDORSEMENT
Attached to Policy No. ___________

Issued By
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For the purposes of this endorsement only, “Covenant” means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.

3. The Company insures against loss or damage sustained by the Insured by reason of:
   a. A violation on the Land at Date of Policy of an enforceable Covenant, unless an exception in Schedule B of the policy identifies the violation; or
   b. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:
   a. any Covenant contained in an instrument creating a lease;
   b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land; or
   c. except as provided in Section 3.b, any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances.

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]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 9.1-06
(Covenants, Conditions and Restrictions-Unimproved Land – Owner’s Policy–) (Rev. 4/2/12)
©American Land Title Association
ENDORSEMENT
Attached to Policy No. ___________

Issued By

[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For the purposes of this endorsement only,
   a. “Covenant” means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
   b. “Improvement” means a building, structure located on the surface of the Land, road, walkway, driveway, or curb, affixed to the Land at Date of Policy and that by law constitutes real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.

3. The Company insures against loss or damage sustained by the Insured by reason of:
   a. A violation on the Land at Date of Policy of an enforceable Covenant, unless an exception in Schedule B of the policy identifies the violation;
   b. Enforced removal of an Improvement as a result of a violation, at Date of Policy, of a building setback line shown on a plat of subdivision recorded or filed in the Public Records, unless an exception in Schedule B of the policy identifies the violation; or
   c. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from:
   a. any Covenant contained in an instrument creating a lease;
   b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land; or
   c. except as provided in Section 3.c., any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances.

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]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 9.2-06
(Covenants, Conditions and Restrictions – Improved Land -Owner's Policy (Rev. 4/1/12)
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ENDORSEMENT
Attached to Policy No. ____________
Issued By
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For the purposes of this endorsement only:
   a. “Covenant” means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
   b. “Improvement” means an improvement, including any lawn, shrubbery, or trees, affixed to the Land at Date of Policy that by law constitutes real property.

3. The Company insures against loss or damage sustained by the Insured by reason of:
   a. A violation of a Covenant that:
      i. divests, subordinates, or extinguishes the lien of the Insured Mortgage,
      ii. results in the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage, or
      iii. causes a loss of the Insured’s Title acquired in satisfaction or partial satisfaction of the Indebtedness;
   b. A violation on the Land at Date of Policy of an enforceable Covenant, unless an exception in Schedule B of the policy identifies the violation;
   c. Enforced removal of an Improvement as a result of a violation, at Date of Policy, of a building setback line shown on a plat of subdivision recorded or filed in the Public Records, unless an exception in Schedule B of the policy identifies the violation; or
   d. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:
   a. any Covenant contained in an instrument creating a lease;
   b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land; or
c. except as provided in Section 3.c, any Covenant pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances.

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]

[FNTG BRAND]

BY: ______________________________
ENDORSEMENT
Attached to Policy No. __________
Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
   a. “Covenant” means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
   b. “Private Right” means (i) a private charge or assessment; (ii) an option to purchase; (iii) a right of first refusal; or (iv) a right of prior approval of a future purchaser or occupant.

3. The Company insures against loss or damage sustained by the Insured under this Loan Policy if enforcement of a Private Right in a Covenant affecting the Title at Date of Policy (a) results in the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage, or (b) causes a loss of the Insured’s Title acquired in satisfaction or partial satisfaction of the Indebtedness.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:
   a. any Covenant contained in an instrument creating a lease;
   b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land;
   c. any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances; or
   d. any Private Right in an instrument identified in Exception(s) _____ 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]

[FNTG BRAND]

By: _______________________________________
Authorized Signatory

ALTA Endorsement Form 9.6-06
(Private Rights-Loan Policy) (Rev. 4/2/13)
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ENDORSEMENT
Attached to Policy No. __________
Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 5 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
   a. “Covenant” means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
   b. “Future Improvement” means a building, structure, road, walkway, driveway, curb, lawn, shrubbery or trees to be constructed on or affixed to the Land in the locations according to the Plans and that by law will constitute real property.
   c. “Improvement” means an improvement, including any lawn, shrubbery, or trees, affixed to either the Land or adjoining land at Date of Policy that by law constitutes real property.
   d. “Plans” means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) dated ____, last revised __________, designated as (insert name of project or project number) consisting of ___ sheets.

3. The Company insures against loss or damage sustained by the Insured by reason of:
   a. A violation of a Covenant that:
      i. divests, subordinates, or extinguishes the lien of the Insured Mortgage,
      ii. results in the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage, or
      iii. causes a loss of the Insured’s Title acquired in satisfaction or partial satisfaction of the Indebtedness;
   b. A violation of an enforceable Covenant by an Improvement on the Land at Date of Policy or by a Future Improvement, unless an exception in Schedule B of the policy identifies the violation;
   c. Enforced removal of an Improvement located on the Land or of a Future Improvement as a result of a violation of a building setback line shown on a plat of subdivision recorded or filed in the Public Records at Date of Policy, unless an exception in Schedule B of the policy identifies the violation; or
   d. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.

4. The Company insures against loss or damage sustained by reason of:
   a. An encroachment of:
      i. an Improvement located on the Land at Date of Policy or a Future Improvement, onto adjoining land or onto that portion of the Land subject to an easement; or
ii. an Improvement located on adjoining land onto the Land at Date of Policy,

unless an exception in Schedule B of the policy identifies the encroachment otherwise insured against in Sections 4.a.i. or 4.a.ii.;

b. Damage to an Improvement located on the Land at Date of Policy or a Future Improvement:

i. that encroaches onto that portion of the Land subject to an 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; or

ii. resulting from the future exercise of a right to use the surface of the Land for the extraction or development of minerals or any other subsurface substances excepted from the description of the Land or excepted in Schedule B.

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

a. any Covenant contained in an instrument creating a lease;

b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land;

c. except as provided in Section 3.d, any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substance

d. contamination, explosion, fire, vibration, fracturing, earthquake or subsidence; or

e. negligence by a person or an Entity exercising a right to extract or develop minerals or other subsurface substances.

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]

[FNTG BRAND]

By: _______________________________________
Authorized Signatory
ENDORSEMENT

Attached to Policy No. __________

Issued by

[FNTG BRAND]

SECTION 9

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
   a. “Covenant” means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
   b. “Future Improvement” means a building, structure, road, walkway, driveway, curb to be constructed on or affixed to the Land in the locations according to the Plans and that by law will constitute real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
   c. “Improvement” means a building, structure located on the surface of the Land, road, walkway, driveway, or curb, affixed to the Land at Date of Policy and that by law constitutes real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
   d. “Plans” means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) dated ____, last revised __________, designated as (insert name of project or project number) consisting of ___ sheets.

3. The Company insures against loss or damage sustained by the Insured by reason of:
   a. A violation of an enforceable Covenant by an Improvement on the Land at Date of Policy or by a Future Improvement, unless an exception in Schedule B of the policy identifies the violation;
   b. Enforced removal of an Improvement located on the Land or of a Future Improvement as a result of a violation of a building setback line shown on a plat of subdivision recorded or filed in the Public Records at Date of Policy, unless an exception in Schedule B of the policy identifies the violation;
   c. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:
   a. any Covenant contained in an instrument creating a lease;
   b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land; or
   c. except as provided in Section 3.c, any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances.
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]

[FNTG BRAND]
By: ______________________________________
Authorized Signatory
ENDORSEMENT
Attached to Policy No. ____________
Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
   a. “Covenant” means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
   b. “Private Right” means (i) an option to purchase; (ii) a right of first refusal; or (iii) a right of prior approval of a future purchaser or occupant.

3. The Company insures against loss or damage sustained by the Insured under this Owner’s Policy if enforcement of a Private Right in a Covenant affecting the Title at Date of Policy based on a transfer of Title on or before Date of Policy causes a loss of the Insured’s Title.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from: restriction:
   a. any Covenant contained in an instrument creating a lease;
   b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land;
   c. any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances; or
   d. any Private Right in an instrument identified in Exception(s) _____ 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]

[FNTG BRAND]

By: __________________________________________
Authorized Signatory

ALTA Endorsement Form 9.9-06
(Private Rights-Owner’s Policy) (4/2/13)
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ENDORSEMENT
Attached to Policy No. ___________
Issued By
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 5 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For the purposes of this endorsement only:
   a. "Covenant" means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
   b. "Improvement" means an improvement, including any lawn, shrubbery, or trees, affixed to either the Land or adjoining land at Date of Policy that by law constitutes real property.

3. The Company insures against loss or damage sustained by the Insured by reason of:
   a. A violation of Date of Policy of a Covenant that:
      i. divests, subordinates, or extinguishes the lien of the Insured Mortgage,
      ii. results in the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage, or
      iii. causes a loss of the Insured's Title acquired in satisfaction or partial satisfaction of the Indebtedness;
   b. A violation on the Land at Date of Policy of an enforceable Covenant, unless an exception in Schedule B of the policy identifies the violation;
   c. Enforced removal of an Improvement located on the Land as a result of a violation, at Date of Policy, of a building setback line shown on a plat of subdivision recorded or filed in the Public Records, unless an exception in Schedule B of the policy identifies the violation; or
   d. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.

4. The Company insures against loss or damage sustained by reason of:
   a. An encroachment of:
      i. an Improvement located on the Land, at Date of Policy, onto adjoining land or onto that portion of the Land subject to an easement; or
      ii. an Improvement located on adjoining land onto the Land at Date of Policy,
   b. A final court order or judgment requiring the removal from any land adjoining the Land of an encroachment identified in Schedule B; or
   c. Damage to an Improvement located on the Land, at Date of Policy:
      i. that is located on or encroaches onto that portion of the Land subject to an 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; or

ii. resulting from the future exercise of a right to use the surface of the Land for the extraction or development of minerals or any other subsurface substances excepted from the description of the Land or excepted in Schedule B.

5. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:
   a. any Covenant contained in an instrument creating a lease;
   b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land;
   c. except as provided in Section 3.d, any Covenant relating to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances;
   d. contamination, explosion, fire, fracturing, vibration, earthquake or subsidence; or
   e. negligence by a person or an Entity exercising a right to extract or develop minerals or other subsurface substances.

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]

[FNTG BRAND]

BY: ______________________________
ASSIGNMENT OF MORTGAGE
ALTA ENDORSEMENT - FORMS 10-06 AND 10.1-06

PURPOSE

The ALTA 10-06 endorsement insures the effectiveness of the assignment of the Insured Mortgage and that there have been no releases or reconveyances placed of record other than as shown. The ALTA 10.1-06 provides the same coverage as the 10-06 and gives additional coverage over only certain matters occurring after the original Date of Policy and before the Date of Endorsement, which is a defined term within the endorsement, unless those matters are disclosed by filling in the blanks contained within the endorsement. These matters include: real estate taxes or assessments; priority of intervening defects, liens or encumbrances; and federal tax liens or bankruptcy proceedings.

Warning: These forms are not the equivalent of complete date-down endorsements. They provide coverage only for the matters discussed. Any request to add the assignment of the Insured Mortgage to Schedule A without doing a complete policy date down or by use of any other type of endorsement other than these forms must be approved by your Company underwriting advisor.

SECTION OF POLICY AMENDED BY ENDORSEMENT

The policy is modified by naming the assignee under the assignment as the Insured. The endorsement provides additional affirmative coverage against the ineffectiveness of the assignment and the effect of any full or partial releases or reconveyances recorded after the Date of Policy and before the Date of Endorsement. In addition, the ALTA 10.1-06 provides coverage for the matters described above. Both forms of endorsement are conditioned upon the proper delivery and endorsement of the underlying notes.

BASIS FOR PROVIDING COVERAGE

Title must be examined through the "Date of Endorsement", which is a defined term in the endorsement and must cover the recording of the assignment of the Insured Mortgage. This requirement may vary from the normal procedure of dating an endorsement the day it is issued.
The Date of Policy is **not** changed except to the extent of the liability assumed under the endorsement for matters specifically addressed in the endorsement. If you find a previous assignment to a different party, without a re-assignment back to the current Insured, you cannot issue this endorsement without approval of your Company underwriting advisor.

The name of the assignee as disclosed by the recorded assignment is to be inserted at item 1.

All modifications, releases or partial releases must be shown at Paragraph No. 2(b) of ALTA 10-06 and at Paragraph No. 2(e) of ALTA 10.1-06.

All taxes that are **due and payable** are shown at Paragraph No. 2(b) of ALTA 10.1-06.

All intervening matters that gain priority over the Insured Mortgage must be shown at Paragraph No. 2(c) of ALTA 10.1-06.

Any federal tax liens and/or notices of bankruptcy should be shown at Paragraph No. 2(d) of ALTA 10.1-06. Please note that federal tax liens must be shown at 2(d) **even if you have determined that these liens are junior to the mortgage and therefore are not shown at 2(c)**, since the existence of the notice of federal tax lien on the record does affect the title.

In addition, for this and any other type of endorsement or policy that insures a subsequent assignee of an Insured Mortgage the following requirements must be met if the Insured Mortgage is **more than one year old** and the loan is **not known** to be non-performing:

- If the Land is one-to-four family residential property and the assignor is a non-institutional lender; **OR**
- If the land is commercial or multi-family (i.e., other than one to four family), regardless of the type of lender **THEN**

you must require an estoppel statement from the borrower acknowledging the existence of the debt and stating that the debt is still valid and free of all defenses in law and equity by use of this requirement:

> A written sworn statement by the record owner of the land, stating that the lien of the mortgages(s) is (are) still good and valid, and in all respects, free from all defenses, both in law and in equity, should be furnished to the Company.

For large portfolios this may be impractical for the assignor to obtain. Nonetheless we should not insure the assignment unless we have something which addresses the current status of the debt. Your Company underwriting advisor must be consulted for guidance.
For insurance of assignments of loans known to be non-performing, which you might discover when you request an estoppel statement, you should raise the following exception, which addresses the possibility that the loan is so far past due as to be unenforceable and excepts the consequences of other actions of the lender that may be raised as defenses to the foreclosure.

Consequences, if any, arising out of any inability to foreclose or delay in foreclosing the Insured Mortgage(s) based upon the expiration of any statute of limitations, or challenges raised to the priority or enforceability of the Insured Mortgage based upon the acts or conduct of the original or subsequent lender.

Any offer of an indemnity to cover these issues must be referred to Regional Counsel by your Company underwriting advisor.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

[Return to Table of Contents]
ENDORSEMENT

Attached to Policy No. ____________

Issued By
[FNTG BRAND]

1. The name of the Insured at Date of Endorsement and referred to in this endorsement as the “Assignee” is amended to read:

2. The Company insures against loss or damage sustained by the Assignee by reason of:
   a. The failure of the following assignment to vest title to the Insured Mortgage in the Assignee:
   b. Any modification, partial or full reconveyance, release, or discharge of the lien of the Insured Mortgage recorded on or prior to Date of Endorsement in the Public Records other than those shown in the policy or a prior endorsement, except:

This endorsement does not insure against loss or damage, and the Company will not pay costs, attorneys’ fees, or expenses, by reason of any claim that arises out of the transaction creating the assignment by reason of the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws that is based on:

1. the assignment being deemed a fraudulent conveyance or fraudulent transfer; or
2. the assignment being deemed a preferential transfer.

This endorsement shall be effective provided that, at Date of Endorsement, (1) the note or notes secured by the lien of the Insured Mortgage have been properly endorsed and delivered to the Assignee, or (2) if the note or notes are transferable records, the Assignee has “control” of the single authoritative copy of each “transferable record” as these terms are defined by applicable electronic transaction laws.

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.

Date of Endorsement_____________________

[Witness clause optional]

[FNTG BRAND]

BY: ______________________________
ENDORSEMENT
Attached to Policy No. ____________

Issued By
[FNTG BRAND]

1. The name of the Insured at Date of Endorsement and referred to in this endorsement as the “Assignee” is amended to read:

2. The Company insures against loss or damage sustained by the Assignee by reason of:
   a. The failure of the following assignment to vest title to the Insured Mortgage in the Assignee:
   b. Any liens for taxes or assessments that are due and payable on Date of Endorsement, except:
   c. Lack of priority of the lien of the Insured Mortgage over defects, liens, or encumbrances other than those shown in the policy or a prior endorsement, except:
   d. Notices of federal tax liens or notices of pending bankruptcy proceedings affecting the Title and recorded subsequent to Date of Policy in the Public Records and on or prior to Date of Endorsement, except:
   e. Any modification, partial or full reconveyance, release or discharge of the lien of the Insured Mortgage recorded on or prior to Date of Endorsement in the Public Records other than those shown in the policy or a prior endorsement, except:

This endorsement does not insure against loss or damage, and the Company will not pay costs, attorneys’ fees, or expenses, by reason of any claim that arises out of the transaction creating the assignment by reason of the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws that is based on:

1. the assignment being deemed a fraudulent conveyance or fraudulent transfer; or
2. the assignment being deemed a preferential transfer.

This endorsement shall be effective provided that, at Date of Endorsement, (1) the note or notes secured by the lien of the Insured Mortgage have been properly endorsed and delivered to the Assignee, or (2) if the note or notes are transferable records, the Assignee has “control” of the single authoritative copy of each “transferable record” as these terms are defined by applicable electronic transaction laws.

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.

Date of Endorsement _____________

[Witness clause optional]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 10.1-06
(Assignment and Date Down) (Rev.02/03/10)
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MORTGAGE MODIFICATION
ALTA ENDORSEMENT - FORMS 11-06 & 11.1-06

PURPOSE

These endorsements were created to insure lenders that the modification of the Insured Mortgage evidenced by the document referred to within the endorsement does not impair the validity, enforceability or priority of the Insured Mortgage as of the Date of Endorsement, which is a defined term within the endorsements. In addition, the 11.1-06 insures against loss based upon a specific matter not being subordinate to the lien of the Insured Mortgage.

SECTION OF POLICY AMENDED BY ENDORSEMENT

No specific sections of the policy are amended by these endorsements. However, additional affirmative coverages are added.

BASIS FOR PROVIDING COVERAGE

Title must be examined through the Date of Endorsement, which must cover the recording of the modification of the Insured Mortgage. This requirement may vary from the normal procedure of dating an endorsement the day it is issued. The Date of Policy is not changed except to the extent of the liability assumed under the endorsement for matters specifically addressed in the endorsement.

The modification agreement must be examined to determine that it does not contain anything which will impair the validity, enforceability or priority of the Insured Mortgage under state law. If anything is found in the agreement which will impair validity, enforceability or priority, then intervening matters such as liens or outstanding taxes must be shown in the space provided below Paragraph No. 2. For example, if the law in your state provides that a modification of a mortgage that increases the principal will subject that additional principal to intervening matters, then all intervening matters disclosed by the title examination must be shown. If issuing the 11.1-06, any matter that is specifically subordinated to the Insured Mortgage by separate document or state law may be shown in the space following Paragraph No. 3.
These endorsements do not extend the Date of Policy so as to bring forward coverages contained in any other endorsements that are a part of the policy. To the extent that the examination covering the recording of the modification agreement discloses any matter which affects the coverages afforded by other endorsements, they should be reflected on the office file for consideration by future examiners.

These endorsements contain a “creditors’ rights” exception relating to the modification agreement. This was included to cover those situations where “creditor’s rights” coverage may have been given in the underlying policy based on the terms of the original mortgage or deed of trust and the structure of the original transaction. The modification could change those terms or structure. Any request for coverage over or deletion of this provision of the endorsement must be referred to the Company’s underwriting adviser.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

Return to Table of Contents
ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

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

1. The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title at Date of Endorsement as a result of the agreement dated ___ recorded ____ ("Modification"); and

2. The lack of priority of the lien of the Insured Mortgage, at Date of Endorsement, over defects in or liens or encumbrances on the Title, except for those shown in the policy or any prior endorsement and except:    ADD EXCEPTIONS HERE

This endorsement does not insure against loss or damage, and the Company will not pay costs, attorneys’ fees, or expenses, by reason of any claim that arises out of the transaction creating the Modification by reason of the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws that is based on:

1. the Modification being deemed a fraudulent conveyance or fraudulent transfer; or

2. the Modification being deemed a preferential transfer except where the preferential transfer results from the failure

   a. to timely record the instrument of transfer; or

   b. of such recordation to impart notice to a purchaser for value or to a judgment or lien creditor.

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.

Date of Endorsement ___________________

[Witness clause optional]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 11-06
(Mortgage Modification) (6/17/06)
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ENDORSEMENT
Attached to Policy No. ___________

Issued By
[FNTG BRAND]

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

1. The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title at Date of Endorsement as a result of the agreement dated ___, recorded ___, ("Modification"); and

2. The lack of priority of the lien of the Insured Mortgage, at Date of Endorsement, over defects in or liens or encumbrances on the Title, except for those shown in the policy or any prior endorsement and except: ADD EXCEPTIONS HERE

3. The following matters not being subordinate to the lien of the Insured Mortgage: ADD SUBORDINATE MATTERS HERE

This endorsement does not insure against loss or damage, and the Company will not pay costs, attorneys’ fees, or expenses, by reason of any claim that arises out of the transaction creating the Modification by reason of the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws that is based on:

1. the Modification being deemed a fraudulent conveyance or fraudulent transfer; or

2. the Modification being deemed a preferential transfer except where the preferential transfer results from the failure
   a. to timely record the instrument of transfer; or
   b. of such recordation to impart notice to a purchaser for value or to a judgment or lien creditor.

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.

Date of Endorsement _____________________

[Witness clause optional]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 11.1-06
(Mortgage Modification with Subordination) (10/22/09)
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AGGREGATION
ALTA ENDORSEMENT - FORM 12-06

PURPOSE

These endorsements are also known as “tie-in” endorsements. Mortgages covering many parcels in different recording districts or jurisdictions may each be recorded for the full amount of the secured indebtedness, or the allocated collateral value of each site, or a combination of full and allocated values. The allocated amount is often used in states which impose a mortgage tax. In any case, the lender views the transaction as one debt and wants insurance coverage for the total amount of the secured indebtedness. Instead of combining all of the parcels into one large loan policy, the aggregation endorsement allows an insurer to issue a number of policies for lesser amounts but to tie the policies together so that the Insured can aggregate the coverage and take advantage of any increases in the value of a particular parcel should there be a loss. Form 12-06 can be used for aggregating policies on sites all located in a single state or sites located in multiple states none of which have state statutory limitations on the amount which can be insured. Form 12.1-06 is intended to be used for aggregating policies in multiple states one or more of which have state statutory limitations on the amount which can be insured.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

This endorsement changes the provisions of Conditions 8(a)(i) of the ALTA Loan Policy so that the Amount of Insurance available to cover a loss is the aggregate of the Amount of Insurance available under the policy to which this endorsement is attached plus the Amounts of Insurance available under the other policies identified in this endorsement. Effective April 2, 2013 Form 12-06 was modified by adding new paragraphs which change the provisions of Sections 7(a)(i), 8(a), 8(b), 10 of the Conditions of the ALTA Loan Policy. New Form 12.1-06 also contains the new paragraphs. These new paragraphs clarify the effect of the endorsement on the options of the Company under the policy in the event of a claim and the extent of the Company’s liability.

BASIS FOR PROVIDING COVERAGE

If a Loan Policy is issued insuring more than one parcel, the liability for a Title defect affecting any one of the parcels is not limited by an apportioned amount of insurance allocated to that parcel. Therefore, the coverage can be shifted among the parcels from those which are not affected by a
defect causing a loss to a parcel affected by such a defect. If the affected property has increased in value since the policy was issued, this shift of coverage provides protection up to the parcel’s increased value without the face amount of the policy being increased. This is basically the theory behind this coverage.

If one policy could be issued covering multiple parcels, an aggregation endorsement would not be necessary. Since a single policy covering all parcels is often not feasible because policy forms, rates and other regulatory issues vary between states, or such a policy could result in a highly complex policy when attempting to cover multiple parcels, with all of their individual exceptions, even within the same state, the ALTA 12-06 was designed to reach the same results as a single policy insuring multiple parcels.

Example: There is a mortgage securing a debt of $10 million. The $10 million mortgage is recorded against a parcel in Illinois and a parcel in California. The Illinois and California policies are each to be issued for $5 million, based on the lender’s evaluation. The tie-in endorsement would allow the lender to make a claim of up to $10 million against either parcel, if the parcel against which the claim is made had increased in value to that extent. In no event would the total liability under both policies be more than $10 million.

You may be asked to issue an alternative format in which both the Illinois and California policies would be issued for a face amount of $10 million but each would include an endorsement limiting our total liability to $10 million under both policies notwithstanding the fact that the sum of the two policies is $20 million. This format is not acceptable. We should never issue a policy with an Amount of Insurance that exceeds the amount for which premium was collected for the insured parcel. In addition, this format could cause the Company to over-reserve based on the Amount of Insurance reported for each policy, and perhaps to pay additional premium tax that would not otherwise be due.

ALTA Form 12.1-06 was designed for multistate transactions involving one or more states with statutory limitations which are less than the aggregate amount of insurance under all the policies to be issued in the transaction. This form allows the full amount of available coverage to be provided for sites in state in which the statutory limit is not a problem, while at the same time limiting coverage in states in which the statutory limit prevents the full amount of coverage from being provided. This form may not be used without the approval of the Reinsurance Department in transactions in which the aggregate amount of insurance will exceed the self-imposed limit of the Fidelity family, or if a party to the transaction is requiring reinsurance from an outside company.
Example: The policies in a multistate transaction will aggregate $100 million. The sites to be insured are located in states X, Y, and Z. In state X the policy aggregate is $70 million, and there is no statutory limit; in state Y the policy aggregate is $20 million, and the state statutory limit is also $20 million; and in state Z the policy aggregate is $10 million and so is the statutory limit. When Form 12.1-06 is completed, the Aggregate Amount of Insurance which will be shown in section 3.a. will be $100 million. This will also be the amount of coverage available for the sites in state X since there is no statutory limit in that state. In section 3.b. of the form state Y will be listed with an Aggregate Amount of Insurance of $20 million, as will state Z with an Aggregate Amount of Insurance of $10 million. The net effect is to provide the full amount of coverage available under the policies to the sites in state X, while limiting coverage for the sites in states Y and Z to the applicable statutory limits.

The following conditions apply to the aggregation endorsements:

1. All of the loan policies to which either of the endorsements will be attached must be of the same type.

2. The loan amount must be secured by mortgages on two or more parcels.

3. The Insured Mortgage must state that each secures the entire Indebtedness or the sum of the amounts secured by all of the Insured Mortgages must equal the entire Indebtedness.

4. The Amount of Insurance shown on Schedule A of any policy must be equal to the amount the Insured allocates to the property described in Schedule A and not to the total aggregate amount shown on the tie-in endorsement.

5. Policies of other companies, including our sister companies, cannot be tied in with policies issued by any one particular company.

6. If Form 12.1-06 is requested for a transaction in which the aggregate amount of insurance will exceed the self-imposed limit of the Fidelity family, or if a party to the transaction is requiring reinsurance from an outside the Fidelity family for any transaction, you must contact the Reinsurance Department before committing to issue the form.
This endorsement is not available in all states. You must verify it is available before agreeing to issue it.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting advisor before complying with any request for a modification.

[Return to Table of Contents]
ENDORSEMENT

Attached to Policy No. ___________

Issued By

[FNTG BRAND]

1. The following policies are issued in conjunction with one another:

<table>
<thead>
<tr>
<th>POLICY NUMBER</th>
<th>STATE</th>
<th>AMOUNT OF INSURANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

2. The amount of insurance available to cover the Company's liability for loss or damage under this policy at the time of payment of loss shall be the Aggregate Amount of Insurance defined in Section 3 of this endorsement.

3. Subject to the limits in Section 4 of this endorsement, the Aggregate Amount of Insurance under these policies is $ ______________________.

4. Section 7(a)(i) of the Conditions of this policy is amended to read:

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 lesser of the value of the Title as insured or the Aggregate Amount of Insurance applicable under this policy at the date the claim was made by the Insured Claimant, or to purchase the Indebtedness.

(i) to pay or tender payment of the lesser of the value of the Title as insured at the date the claim was made by the Insured Claimant, or the Aggregate Amount of Insurance applicable under this policy together with any cost, attorneys' fees, and costs 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

5. Section 8(a) and 8(b) of the Conditions of this policy are amended to read:

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 Aggregate 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, 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 the date it is settled and paid.

6. Section 10 of the Conditions of this policy is amended to read:

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 Aggregate Amount of Insurance by the amount of the payment.

(b) However, any payments made prior to the acquisition of Title as provided in Section 2 of these Conditions shall not reduce the Aggregate Amount of Insurance afforded under this endorsement except to the extent that the payments reduce the Indebtedness.

(c) The voluntary satisfaction or release of the Insured Mortgage shall terminate all liability of the Company under this policy, except as provided in Section 2 of these Conditions, but it will not reduce the Aggregate Amount of Insurance for the other policies identified in Section 1 of this endorsement.

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]
ENDORSEMENT
Attached to Policy No. __________
Issued By
[FNTG BRAND]

1. The following policies are issued in conjunction with one another:

   POLICY NUMBER: | STATE: | AMOUNT OF INSURANCE:
   $               | $     | $
   $               | $     | $

2. The amount of insurance available to cover the Company's liability for loss or damage under this policy at the time of payment of loss shall be the Aggregate Amount of Insurance defined in Section 3 of this endorsement.

3. The Aggregate Amount of Insurance under this policy is either:
   a. $________________________; or
   b. If the Land is located in one of the states identified in this subsection, then the Aggregate Amount of Insurance is restricted to the amount shown below:

<table>
<thead>
<tr>
<th>STATE</th>
<th>AGGREGATE AMOUNT OF INSURANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
</tr>
<tr>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

4. Section 7(a)(i) of the Conditions of this policy is amended to read:

   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 lesser of the value of the Title as insured or the Aggregate Amount of Insurance applicable under this policy at the date the claim was made by the Insured Claimant, or to purchase the Indebtedness.

   (i) To pay or tender payment of the lesser of the value of the Title as insured at the date the claim was made by the Insured Claimant, or the Aggregate Amount of Insurance applicable under this policy, together with any cost, attorneys' fees, and costs 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
5. Section 8(a) and 8(b) of the Conditions of this policy are amended to read:

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 Aggregate Amount of Insurance for the State where the Land is located,

(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, 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 the date it is settled and paid.

6. Section 10 of the Conditions of this policy is amended to read:

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 applicable Aggregate Amount of Insurance by the amount of the payment.

(b) If this policy insures the Title to Land located in a state identified in Section 3.b. of this endorsement:

(i) all payments under this policy, except payments made for costs, attorneys’ fees, and expenses, shall reduce the Aggregate Amount of Insurance by the amount of the payment; but

(ii) a payment made for loss or damage on Land insured in one of the policies identified in Section 1 on Land located outside this state shall not reduce the Aggregate Amount of Insurance in Section 3.b. of this endorsement until the Aggregate Amount of Insurance in Section 3.a. is reduced below the Aggregate Amount of Insurance in Section 3.b.

(c) However, any payments made prior to the acquisition of Title as provided in Section 2 of these Conditions shall not reduce the Aggregate Amount of Insurance afforded under this endorsement except to the extent that the payments reduce the Indebtedness.

(d) The voluntary satisfaction or release of the Insured Mortgage shall terminate all liability of the Company under this policy, except as
provided in Section 2 of these Conditions, but it will not reduce the Aggregate Amount of Insurance for the other policies identified in Section 1 of this endorsement.

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]

[FNTG BRAND]

By: ______________________________________
    Authorized Signatory
LEASEHOLD-OWNER’S AND LEASEHOLD-LOAN
ALTA ENDORSEMENT – FORMS 13-06 AND 13.1-06

PURPOSE

The ALTA Endorsement Forms 13-06 and 13.1-06 were created to be attached to the ALTA Owner’s Policy and ALTA Loan Policy respectively. They were revised April 2, 2012. They are intended to be used either with policies covering only Leasehold Estates or for those that insure both Leasehold Estates and the ownership of improvements located on them.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

The previous ALTA Leasehold Owner’s and Leasehold Loan Policies were designed to provide insurance for space tenants that had no significant investment in Tenant Improvements. As a result, these policies did not provide compensation for the loss of Tenant Improvements or for the value of the loss of use of the leasehold for legitimate purposes as the result of a matter covered by the policies.

The ALTA 13-06 and 13.1-06 provide all of the coverages previously provided by the former leasehold policy forms but in addition include the value of improvements in the calculation of losses resulting from eviction based on a matter insured by the current policy forms. Similarly, improvement value is included if the Insured is unable to use the property for its intended purpose as a result of a matter covered by the policy, assuming the lease permits such a use.

Reimbursement to the Insured for specified out-of-pocket construction costs for improvements on the land that were not substantially completed at the time of eviction is also provided. Similar coverage is provided to insured leasehold lenders for improvements they construct after they acquire the property by foreclosure or conveyance in lieu thereof.
Finally, both endorsements also increase to 100 miles the distance for which the Company will pay the costs of relocating personal property.

The April 2, 2012 revision consists of:

- A revision of the definition of “Personal Property” to make it consistent with the use of the term in other endorsements such as the ALTA 36-06 (Energy Project – Leasehold/Easement – Owners) and the ALTA 36.2-06 (Energy Project – Leasehold-Owners).

- A revision of the definition of “Tenant Leasehold Improvements” to relate only to the extent the Insured has rights in such Improvements.

- A revision of the “Valuation of Estate or Interest Insured” to clarify that it covers the entire Title, or any portion of it, from which the Insured suffers eviction. In addition, it clarifies that the loss must come from a defect insured against by the policy.

- “Additional items of loss” is clarified to make coverage applicable to the portion of Land from which the Insured is Evicted, if it is not the entire Land, and references the Condition in the policy that determines the measure of loss (Owners Policy, Section 8(a) (ii) and Loan Policy, Section 8(a)(iii)).

- Adds the cost of restoring the property to the extent it is damaged because of Eviction.

- Adds a limitation that the coverage does not include loss resulting from environmental damage or contamination, to conform to policy provisions.

**BASIS FOR PROVIDING COVERAGE**

The ALTA Leasehold Owner’s and Leasehold Loan Policies were withdrawn as official ALTA Forms. The ALTA 13-06 and 13.1-06 were meant to replace the old policy forms. Since these
endorsements give more coverage than the old policies, it is not expected that there will be any requests for the old forms, which now must be titled “formerly ALTA” to indicate that they have been withdrawn by ALTA.

These endorsements will be issued when the customer is seeking the additional coverages provided therein. The searching and examining procedures for insuring leaseholds remain the same, as does the modification of Schedule A. The estate or interest in the Land is not a Fee, but rather the Leasehold Estate created by and between the parties, with a reference to the underlying lease information. The entire lease must be examined, and many states require any short form lease or memorandum of the lease to contain the signatures of both parties to give effective constructive notice on the record of the tenants’ rights and interests (if the full lease is not recorded).

Consult your Company underwriting advisor for instructions on how to correctly modify the fee policies for use with these endorsements.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting advisor before complying with any request for a modification.

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ENDORSEMENT
Attached to Policy No. ___________

Issued By
[FNTG BRAND]

1. As used in this endorsement, the following terms shall mean:
   a. "Evicted" or "Eviction": (a) the lawful deprivation, in whole or in part, of the right of possession insured by this policy, contrary to the terms of the Lease or (b) the lawful prevention of the use of the Land or the Tenant Leasehold Improvements for the purposes permitted by the Lease, in either case as a result of a matter covered by this policy.
   b. "Lease": the lease described in Schedule A.
   c. "Leasehold Estate": the right of possession granted in the Lease for the Lease Term.
   d. "Lease Term": the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
   e. "Personal Property": property, in which and to the extent the Insured has rights, located on or affixed to the Land on or after Date of Policy that by law does not constitute real property because (i) of its character and manner of attachment to the Land and (ii) the property can be severed from the Land without causing material damage to it or to the Land.
   f. "Remaining Lease Term": the portion of the Lease Term remaining after the Insured has been Evicted.
   g. "Tenant Leasehold Improvements": Those improvements, in which and to the extent the Insured has rights, including landscaping, required or permitted to be built on the Land by the Lease that have been built at the Insured's expense or in which the Insured has an interest greater than the right to possession during the Lease Term.

2. Valuation of Estate or Interest Insured:

   If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction of the Insured, then, as to that portion of the Land from which the Insured is Evicted, that value shall consist of the value for the Remaining Lease Term of the Leasehold Estate and any Tenant Leasehold Improvements existing on the date of the Eviction. The Insured Claimant shall have the right to have the Leasehold Estate and the Tenant Leasehold Improvements affected by a defect insured against by the policy valued either as a whole or separately. In either event, this determination of value shall take into account rent no longer required to be paid for the Remaining Lease Term.

3. Additional items of loss covered by this endorsement:

   If the Insured is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 2 of this endorsement, any other endorsement to the policy or Section 8(a)(ii) of the Conditions:

   a. The reasonable cost of (i) removing and relocating any Personal Property that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, (ii) transportation of that Personal Property for the initial one hundred miles incurred in connection with the relocation, (iii) repairing the Personal Property damaged by reason of the removal and relocation, and (iv) restoring the Land to the extent damaged as a result of the removal and relocation of the Personal Property and required of the Insured solely because of the Eviction.
b. Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.

c. The amount of rent that, by the terms of the Lease, the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate and Tenant Leasehold Improvements from which the Insured has been Evicted.

d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease permitted by the Lease and made by Insured as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.

e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease permitted by the Lease and made by the Insured as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.

f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a leasehold reasonably equivalent to the Leasehold Estate.

g. If Tenant Leasehold Improvements are not substantially completed at the time of Eviction, the actual cost incurred by the Insured, less the salvage value, for the Tenant Leasehold Improvements up to the time of Eviction. Those costs include costs incurred to obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping.

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

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]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 13-06
(Leasehold – Owners) (Rev. 4/2/12)
© American Land Title Association
1. As used in this endorsement, the following terms shall mean:
   a. "Evicted" or "Eviction": (a) the lawful deprivation, in whole or in part, of the right of possession insured by this policy, contrary to the terms of the Lease or (b) the lawful prevention of the use of the Land or the Tenant Leasehold Improvements for the purposes permitted by the Lease, in either case as a result of a matter covered by this policy.
   b. "Lease": the lease described in Schedule A.
   c. "Leasehold Estate": the right of possession granted in the Lease for the Lease Term.
   d. "Lease Term": the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
   e. "Personal Property": property, in which and to the extent the Insured has rights, located on or affixed to the Land on or after Date of Policy that by law does not constitute real property because (i) of its character and manner of attachment to the Land and (ii) the property can be severed from the Land without causing material damage to the property or to the Land.
   f. "Remaining Lease Term": the portion of the Lease Term remaining after the Tenant has been Evicted.
   g. "Tenant": the tenant under the Lease and, after acquisition of all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy, the Insured Claimant.
   h. "Tenant Leasehold Improvements": Those improvements, in which and to the extent the Insured has rights, including landscaping, required or permitted to be built on the Land by the Lease that have been built at the Tenant’s expense or in which the Tenant has an interest greater than the right to possession during the Lease Term.

2. Valuation of Estate or Interest Insured:

   If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction of the Tenant, then, as to that portion of the Land from which the Tenant is Evicted, that value shall consist of the value for the Remaining Lease Term of the Leasehold Estate and any Tenant Leasehold Improvements existing on the date of the Eviction. The Insured Claimant shall have the right to have the Leasehold Estate and the Tenant Leasehold Improvements affected by a defect insured against by the policy valued either as a whole or separately. In either event, this determination of value shall take into account rent no longer required to be paid for the Remaining Lease Term.

3. Additional items of loss covered by this endorsement:

   If the Insured acquires all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of this policy and thereafter is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 2 of this endorsement, any other endorsement to the policy, or Section 8(a)(iii) of the Conditions:
   a. The reasonable cost of (i) removing and relocating any Personal Property that the Insured has the right to remove and relocate, situated on the Land at the time
of Eviction, (ii) transportation of that Personal Property for the initial one hundred
miles incurred in connection with the relocation, (iii) repairing the Personal
Property damaged by reason of the removal and relocation, and (iv) restoring the
Land to the extent damaged as a result of the removal and relocation of the
Personal Property and required of the Insured solely because of the Eviction

b. Rent or damages for use and occupancy of the Land prior to the Eviction that the
Insured as owner of the Leasehold Estate may be obligated to pay to any person
having paramount title to that of the lessor in the Lease.

c. The amount of rent that, by the terms of the Lease, the Insured must continue to
pay to the lessor after Eviction with respect to the portion of the Leasehold Estate
and Tenant Leasehold Improvements from which the Insured has been Evicted.

d. The fair market value, at the time of the Eviction, of the estate or interest of the
Insured in any lease or sublease permitted by the Lease and made by Tenant as
lessee of all or part of the Leasehold Estate or the Tenant Leasehold
Improvements.

e. Damages caused by the Eviction that the Insured is obligated to pay to lessees
or sublessees on account of the breach of any lease or sublease permitted by the
Lease and made by the Tenant as lessee of all or part of the Leasehold Estate or the Tenant Leasehold
Improvements.

f. The reasonable cost to obtain land use, zoning, building and occupancy permits,
architectural and engineering services and environmental testing and reviews for
a replacement leasehold reasonably equivalent to the Leasehold Estate.

g. If Tenant Leasehold Improvements are not substantially completed at the time of
Eviction, the actual cost incurred by the Insured, less the salvage value, for the
Tenant Leasehold Improvements up to the time of Eviction. Those costs include
costs incurred to obtain land use, zoning, building and occupancy permits,
architectural and engineering services, construction management services,
environmental testing and reviews, and landscaping.

4. This endorsement does not insure against loss, damages, or costs of remediation (and the
Company will not pay cost, attorneys’ fees or expenses) resulting from environmental damage or
contamination.

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]

[FNTG BRAND]

BY: ________________________________
FUTURE ADVANCES
ALTA ENDORSEMENT – FORMS 14-06, 14.1-06, 14.2-06 and 14.3-06

PURPOSE

These endorsements, like the Revolving Credit Endorsements discussed in Section 60, affirmatively insure the priority and enforceability of the lien of the Insured Mortgage with respect to future advances and repayments and re-advances of Indebtedness. In addition, they include coverage for the consequences of a variable rate, including possible negative amortization (or interest on interest), as discussed in Section 6. These endorsements also cover the effect on the priority and enforceability of the Insured Mortgage of the Indebtedness having been reduced to zero before being increased by subsequent advances (“zero-balance”), and state law requirements to secure these advances not having been met. Unique to the 14.3-06 (Reverse Mortgages) is additional coverage for failure of the Insured Mortgage to state a term or maximum dollar amount, and failure of the mortgagors to be at least 62 years old.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

Each endorsement modifies Exclusions from Coverage No. 3(d) and Conditions No. 1 (d)(ii). They also expand the coverage granted by Covered Risks 9 and 10 to those amounts included within the definition of Indebtedness at Condition 1(d) by using and defining the term “Advances” to include those amounts.

BASIS FOR PROVIDING COVERAGE

The underwriting issues discussed in Section 6 must be considered in order to issue the variable rate coverage included in all these forms. In addition, refer to Section 59 for a complete discussion of the various factors to take into consideration when analyzing which form of endorsement to use to cover revolving credit and future advances. These factors include:

1. Preliminary Considerations

Security
A mortgage or deed of trust will secure repayment of future advances of funds by the lender if it so provides. It doesn’t matter whether the loan provides for revolving credit or not. However, except in the case where the principal balance has been paid down to zero, the security instrument may not secure future advances unless the parties agree that it will.
Under Section 549 of the Bankruptcy Code, the bankruptcy trustee of a borrower may have the power to avoid the lien of a mortgage or trust deed to the extent it secures advances made after the lender has notice of the bankruptcy. The recording or filing of a copy of the petition, or a notice that the petition has been filed, is sufficient to give the lender that notice. Therefore, draws against a revolving credit line and other loan advances which are funded after this point may be in jeopardy of being unsecured.

**Priority**
The priority of the mortgage or deed of trust as security for future advances depends upon the factors discussed below. The problems arise where a lien or encumbrance is created or attaches after recording of the mortgage or trust deed but prior to a future advance.

2. Ordinary Liens and Encumbrances

**Notice**
To be prior, notice that the mortgage or trust deed secures future advances must be given to future holders of liens and encumbrances. Therefore, the recorded mortgage must disclose that it secures future advances.

**Obligation to Advance**
Whether the lender is obligated to make the advance after an intervening party’s lien or encumbrance attaches to the borrower’s Title is important to priority in most states. If the lender is legally obligated to make the advance (“obligatory advance”), the lien securing it is prior to the lien or encumbrance of the intervening party. An advance is obligatory if the lender could be successfully sued for damages if it did not make it. Therefore, any conditions on the lender’s obligation to fund must not be under the lender’s control. If the lender is not obligated to fund after a lien or encumbrance attaches to the title, any advances made thereafter are optional (“optional advance”). The rule differs among the states as to whether a lien securing optional advances will have priority over an intervening lien or encumbrance:

**Majority Rule:** A future advance mortgage lien is prior if the lender does not have actual notice of the intervening interest at the time of the advance.

**Minority Rule:** A future advance mortgage lien is prior if the lender has neither actual nor constructive notice of the intervening interest at the time of the advance.
Unless the agreement between the lender and borrower provides for a cure by the borrower, any advance made after a default by the borrower is an optional advance. Where an obligatory advance agreement contains a cure provision, advances made after cure are again obligatory. Therefore they would be entitled to priority over encumbrances attaching after cure but before the advance. Advances made after default and before cure would be treated as optional advances.

3. Special Cases: Federal Tax Liens, Mechanics’ Liens and Environmental Protection Liens

Federal Tax Liens
There is some argument about the priority of federal tax liens with respect to the lien for disbursements under a construction loan. Under the worst case view, the construction loan mortgage lien has the same priority over federal tax liens as it would have over a judgment lien under state law. However, no advance made under a non-construction future advance mortgage is protected against a federal tax lien recorded after recording of the mortgage where the advance is made (1) more than 45 days after the recording of the tax lien notice or (2) after actual notice of the tax lien, whichever occurs first. Whether the advance is optional or obligatory is immaterial.

Mechanics’ Liens
The law of many states gives mechanics’ liens priority over the lien of mortgages or trust deeds. In some states, this is limited to those mortgages or trust deeds which finance the construction out of which the liens arise. Others treat mechanic’s liens like other liens with respect to future advance mortgages if the mortgage was recorded before the visible commencement of construction. The exception or carve out for Mechanics’ Liens appears as bracketed optional material. Some states may require a separate form filing for each version of the endorsement (with or without the optional material). The version that may be available in your state will be determined by your Company underwriting advisor.

Environmental Protection Liens
Currently, federal law and the laws of many states create governmental liens to secure repayment for the cost of cleaning the environment of toxic or hazardous waste. These liens may also secure repayment for the damage done to the environment. Under some state laws, these liens have priority over existing liens. It is possible for them to be created without recording or filing in the local real estate records. The impact of such liens on the priority of future advances of loan proceeds is uncertain.
Forms

Form 14-06 is the broadest coverage and is only available where your state law provides absolute priority for the additional advances, without regard to the knowledge (even the actual knowledge) of the insured lender. All requirements of state law must be met, such as the inclusion of specific language on the face of the recorded mortgage. Paragraph No. 4 of the endorsement must include any other specific matter that primes the additional advance under your state law, such as construction or mechanics liens (which is shown as optional item f.)

Form 14.1-06 is comparable to Form C in Section 59. The form excepts “actual knowledge”, only, not constructive knowledge. Therefore, this can only be issued in those jurisdictions where the law protects additional advances or re-advances made in the face of recorded matters of which the lender did not have actual knowledge, i.e., where constructive notice alone will not prime the advance. In other words, if an advance or re-advance is subordinate to intervening recorded matters, without regard to whether the lender had actual knowledge, you would not be able to issue this form of endorsement as it is written. It would be possible to issue this endorsement if an exception for such matters is included under Paragraph No. 4. For example: "The loss of priority of any Advance made after the Insured has actual or constructive notice of the existence of liens, encumbrances or other matters affecting the Land intervening between Date of Policy and the Advance, as to the intervening lien, encumbrance or other matter."

Form 14.2-06 affords affirmative coverage for a mortgage which collateralizes the obligations of a borrower under a letter of credit. Since those obligations will not arise until the letter is drawn on, the same kinds of factors will need to be analyzed under your state law to see what kind of priority these types of possible future advances might enjoy, and add to Paragraph No. 4 any additional matters that prime these types of future advances. The fact that these advances are, in a sense, conditional may mean that they do not enjoy the same priority as other types of future advances under your state law. This endorsement was revised by ALTA in 2009 and now it contains a bankruptcy carve-out, which is similar to older proprietary versions.

Form 14.3-06 deals with reverse mortgages, which are sometimes structured as a series of additional advances. It is comparable to Form C in Section 59. The form excepts “actual knowledge”, not constructive knowledge. Therefore, like the 14.1-06, this can only be issued in those jurisdictions where the law protects additional advances or re-advances made in the face of recorded matters of which the lender did not have actual knowledge, i.e., where constructive notice alone will not prime the advance. In addition, state law must be reviewed to determine if failure to state a length of term or maximum dollar amount in the Insured Mortgage will affect the
priority and enforceability of the Insured Mortgage. The endorsement was created to support the HUD approved form of reverse mortgage, and the statutory support and recognition of this type of loan product may be found in separate statutes passed after HUD began this program. Additionally, you must verify the mortgagors are at least 62 years old, which is another HUD requirement. [technically corrected by ALTA 12-3-2012]

AUTHORITY FOR ISSUANCE OF THIS COVERAGE

These endorsements may not be issued without the approval of the Company’s underwriting advisor.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, other than as discussed in this section, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting advisor before complying with any request for a modification.

Return to Table of Contents
ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

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 from Coverage 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, the repayment of Advances under which is secured by the Insured Mortgage.

   b. "Advance," as used in this endorsement, shall mean only an advance of principal 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.

   c. "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 or the Agreement at Date of Policy.

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 lack of priority of the lien of the Insured Mortgage as security for the Indebtedness, Advances and unpaid interest resulting from (i) re-Advances and repayments of Indebtedness, (ii) earlier periods of no indebtedness owing during the term of the Insured Mortgage, or (iii) the Insured Mortgage not complying with the requirements of state law of the state in which the Land is located to secure Advances.

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 Indebtedness.

   b. Lack 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 lack 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.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from:
   a. The invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for any Advance 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 lien of real estate taxes or assessments on the Title imposed by governmental authority arising after Date of Policy;
   c. The lack 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, after notice of a federal tax lien filed against the mortgagor, of any grace period for making disbursements with priority over the federal tax lien provided in the Internal Revenue Code (26 U.S.C.);
   d. Any federal or state environmental protection lien; [or]
   e. Usury, or any consumer credit protection or truth-in-lending law. [; or
   f. Any mechanic's or materialmen's lien.]

5. The Indebtedness includes Advances.

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]

[BRACKETED MATERIAL OPTIONAL]

[FNTG BRAND]

BY: ______________________________
ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

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 from Coverage 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, the repayment of Advances under which is secured by the Insured Mortgage.

b. "Advance," as used in this endorsement, shall mean only an advance of principal 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.

c. "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 or the Agreement at Date of Policy.

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 lack of priority of the lien of the Insured Mortgage as security for the Indebtedness, Advances and unpaid interest resulting from (i) re-Advances and repayments of Indebtedness, (ii) earlier periods of no Indebtedness owing during the term of the Insured Mortgage, or (iii) the Insured Mortgage not complying with the requirements of state law of the state in which the Land is located to secure Advances.

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 Indebtedness.

b. Lack 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
lack 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.

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

   a. The invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for any Advance 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 lien of real estate taxes or assessments on the Title imposed by governmental authority arising after Date of Policy;

   c. The lack 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, after notice of a federal tax lien filed against the mortgagor, of any grace period for making disbursements with priority over the federal tax lien provided in the Internal Revenue Code (26 U.S.C.);

   d. Any federal or state environmental protection lien;

   e. The lack of priority of any Advance made after the Insured has Knowledge of the existence of liens, encumbrances or other matters affecting the Land intervening between Date of Policy and the Advance, as to the intervening lien, encumbrance or other matter; [or]

   f. Usury, or any consumer credit protection or truth-in-lending law. [; or

   g. Any mechanic's or materialmen's lien.]

5. The Indebtedness includes Advances.

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 Section 2 of this endorsement is subject to the exclusions in Section 3 of this endorsement and the Exclusions from Coverage 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 letter of credit and its reimbursement agreement, the repayment of Advances under which is secured by the Insured Mortgage.
   b. "Advance," as used in this endorsement, shall mean only an advance 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, Advances and unpaid interest resulting from (i) re-Advances and repayments of Indebtedness, (ii) earlier periods of no indebtedness owing during the term of the Insured Mortgage, or (iii) the Insured Mortgage not complying with the requirements of state law of the state in which the Land is located to secure Advances.

3. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees or expenses) resulting from:
   a. The lien of real estate taxes or assessments on the Title imposed by governmental authority arising after Date of Policy; or
   b. Any federal or state environmental protection lien; or
   c. Limitations, if any, imposed under the Bankruptcy Code (11 U.S.C.) on the amount that may be recovered from the mortgagor’s estate. [; or
   d. Any mechanic’s or materialmen’s lien.]

4. The Indebtedness includes Advances.

   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]

[BRACKETED MATERIAL OPTIONAL]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 14.2-06
(Future Advance – Letter of Credit) (Rev. 2/3/11)
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ENDORSEMENT

Attached to Policy No. ____________

Issued By
[FNTG BRAND]

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, repayment of Advances under which is secured by the Insured Mortgage.

   b. "Advance," as used in this endorsement, shall mean only an advance of principal 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.

   c. "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 or the Agreement at Date of Policy.

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 lack of priority of the lien of the Insured Mortgage as security for the Indebtedness, Advances and unpaid interest resulting from (i) re-Advances and repayments of Indebtedness, (ii) earlier periods of no indebtedness owing during the term of the Insured Mortgage, (iii) the Insured Mortgage not complying with the requirements of state law of the state in which the Land is located 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 invalidity or unenforceability of the lien of the Insured Mortgage because of 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. Lack 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 lack 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.

"Interest," as used in this Paragraph 3, shall include lawful interest based on 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. The invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for any Advance 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 lien of real estate taxes or assessments on the Title imposed by governmental authority arising after Date of Policy;

c. The lack 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, after notice of a federal tax lien filed against the mortgagor, of any grace period for making disbursements with priority over the federal tax lien provided in the Internal Revenue Code (26 U.S.C.);

d. Any federal or state environmental protection lien; [or]

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

f. Any mechanic’s or materialmen’s lien.]

5. The Indebtedness includes Advances.

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]

[BRACKETED MATERIAL OPTIONAL]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 14.3-06
(Future Advance – Reverse Mortgage) (Rev. 2/3/11)
© American Land Title Association)

[includes technical corrections of 12-3-12]
NON-IMPUTATION

ALTA ENDORSEMENT – FORMS 15-06 (FULL-EQUITY TRANSFER);
15.1-06 (ADDITIONAL INSURED) and 15.2-06 (PARTIAL EQUITY)

PURPOSE

These ALTA forms give coverage over matters known to specified parties that would otherwise be excluded from coverage on the basis of imputed knowledge, but also over the consequences of the actions or inactions of those parties which affect the Title. Form 15-06 is to be used when the entire beneficial interest of the entity holding Title and named as the insured on Schedule A (e.g., partnership interest, corporate stock, membership interest of limited liability company) has been transferred for value. Form 15.1-06 is to be used when only a portion of the beneficial interest of the entity holding Title and named on Schedule A as the insured has been transferred and the incoming beneficial owner is identified on the form as an additional insured. Form 15.2-06 is to be used when the incoming beneficial owner requests to be the insured in its own policy, and its interest has been transferred for value.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

Exclusions from Coverage 3(a) and (b) in the ALTA Owner's Policy and ALTA Loan Policy exclude from coverage matters created, suffered, assumed, or agreed to by the insured or known to the insured, but not to the Company, and not disclosed by the public records. With these endorsements, the Company agrees not to assert these Exclusions as defenses to coverage for matters that would be legally binding on a business entity under the law of imputed knowledge. The ALTA forms further clarify that the Company will not raise as a defense the failure to utilize the protection of recording acts, which is the purpose of Exclusion 3(e). These endorsements are usually requested in situations where no deed will be recorded, thereby precluding this protection.

BASIS FOR PROVIDING COVERAGE

These endorsements are only to be given when we have received adequate assurances in affidavit form that there are no matters known by the party or parties from whom knowledge is to be imputed to the insured entity, and we are provided a satisfactory indemnity from an appropriate indemnitee. Specimen affidavits are included at the end of this Section as Exhibits A and B and are to be used only after the appropriate credit underwriting has been completed. The affidavit must provide that the affiant has done proper due diligence to support the statements.
made therein. When issuance of one of these endorsements is authorized, the endorsement must be completed so as to provide the coverage to the “innocent party” only.

**Underwriting considerations:**

*Owner’s policy*

The knowledge of one party having an interest in an insured entity may be imputed by law to the entity and to other parties having an interest in the named entity. This means that if one partner knows about some off-record matter (such as the interest of a purchaser under a contract), the partnership and the other partners are held to “know” it. Since the partnership, in this example, is the Insured under the Policy, this may result in the denial of coverage as a matter known to the Insured and not known to the Company and not disclosed by the public records.

Unlike the ALTA 15-06, the coverage in the ALTA 15.1-06 and 15.2-06 is not designed to protect the Insured entity itself, but instead to protect one or more of the so-called “innocent parties” that have an interest in the named entity.

*Loan policy*

Because knowledge may be imputed to a lender through its agents, partners or other participating lenders, requests for this coverage may be made by the insured lender. This is quite common where the lender, in addition to loaning money, participates directly or indirectly in the development entity.

**Examples**

*Example:* Title is presently vested in A. B has agreed to participate in a project with A to develop the land for an office building. A will convey the land to a new partnership being formed between himself and B. B is concerned that A may have knowledge or have done some act that B is unaware of that would be imputed to the new partnership.

*Example:* In the example above, after A and B form their partnership they proceed to arrange financing for the project. A and B discover that the best deal they can structure involves lender C who will forego market interest rates in exchange for an equity participation interest for its wholly-owned subsidiary D. Title is conveyed to a new partnership composed of the A&B partnership and D and the new partnership AB&D gets a loan from C. D is concerned that knowledge by A
and B will be imputed to the A&B partnership which would then be imputed to the new partnership AB&D.

In the first example, coverage could be provided to B with regard to the knowledge of A prior to the conveyance to the A&B partnership. This coverage would be provided by an owner’s policy insuring A&B partnership and an ALTA 15.1-06 naming B as the additional insured.

In the second example, coverage could be provided to D with regard to the knowledge of A and B prior to the conveyance to AB&D partnership. Again this coverage would be in an owner’s policy insuring the partnership and an ALTA Form 15.1-06 naming the new partner as the additional insured, or an ALTA 15.2-06 attached to a policy wherein D is the named Insured for the partial ownership interest it has acquired in the partnership.

**Forms of Coverage**

For **ALTA Form 15-06**, the parties that need to be queried would be some or all of the outgoing beneficial owners. For a partnership, it would be all of the outgoing partners. For any other business entity, your underwriting advisor should be consulted as to the identity of the parties from whom we require assurances.

For **ALTA Form 15.1-06**, the parties to be questioned would be some or all of the outgoing beneficial owners. For a partnership, it would be all of the outgoing and remaining general partners. For any other business entity, your underwriting advisor should be consulted as to the identity of the parties from whom we require assurances.

For **ALTA Form 15.2-06**, the parties to be queried would be some or all of the outgoing beneficial owners. For a partnership, it would be all of the outgoing and remaining general partners. For any other business entity, your underwriting advisor should be consulted as to the identity of the parties from whom we require assurances.

**NOTE:** For Form 15.2-06 (but **not** for Form 15-06 or 15.1-06), it may be necessary to coordinate the benefits of the Owners Policy to which it is attached and any other Owner’s Policy which the Company may have previously issued naming the entity vested with Title as the Insured on Schedule A. This coordination may be accomplished with an exception on Schedule B of both policies that provides that the Company’s liability thereunder is noncumulative. Such an exception might read as follows “It is understood that the Amount of Insurance under this policy shall be reduced by any amount the
Company may pay under [identify other Owner’s Policy], and the amount so paid shall be deemed a payment under this policy to the Insured." The question of the need for or the form of coordination of the policies must be referred to your underwriting advisor.

AUTHORITY FOR ISSUANCE OF THIS COVERAGE

This endorsement may not be issued without the approval of the Company’s underwriting advisor.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

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Exhibit A

[Affiant to be personally liable on indemnity, e.g., a general partner]

State of _______________________
County of _______________________

Affidavit and Indemnity

The undersigned, being first duly sworn, on oath, deposes and says the following:

1. The undersigned is ____________________ [title or capacity] of ______________ [name of entity] _____________________.

2. To the best knowledge of the undersigned,

   a. There are presently no defects in or liens, encumbrances or other claims against the Title to the property described in the Commitment for Title Insurance No. ________, having an Effective Date of ________________, issued by [insert name of the insuring company] (hereinafter referred to as “the Company”) other than as disclosed in exceptions Nos. ______ on Schedule B - Section 2 of said commitment, other than the following: (If none, state “None”); and;

   b. There are presently no inchoate rights which may ripen into any defect, lien, encumbrance or claim against the Title to said property except as may be created by any instrument or action required in Schedule B - Section 1 of said commitment, other than the following: (If none, state “None”)

3. The undersigned makes these statements after having questioned all of the other partners and the employees and agents, if any, of [name of entity] who have had any substantial contact with any transaction or negotiation involving the property described in said commitment.
4. The undersigned hereby indemnifies the Company and agrees to hold it harmless against any loss which the Company may suffer by virtue of any valid claim made under the said endorsement based on the existence of any defect in or lien, encumbrance, right or claim against or with respect to the Title to the aforesaid property which was not disclosed above but which should have been so disclosed in order to make all statements above true and correct.

The undersigned understands such losses may include court costs and attorney’s fees expended by the Company in defending the Title or interest of the insured against such lien, encumbrance, right or claim.

5. The undersigned makes these statements and gives the aforesaid indemnity for the purpose of inducing the Company to issue the endorsement attached hereto as Exhibit A to one or more of the owner’s or loan policies issued pursuant to the said Commitment for Title Insurance.

The undersigned further agrees to pay all court costs and reasonable attorney’s fees which the Company may expend in enforcing the terms of this indemnity agreement.

Dated:___________________________

______________________________
[Name of Affiant & Indemnitor]

[Standard form jurat.]

[Standard form acknowledgment, if useful.]
Exhibit B

[Affiant to be personally liable on indemnity, e.g., a corporate partner]

State of ______________________) ss.
County of ______________________)

Affidavit and Indemnity

The undersigned, being first duly sworn, on oath, deposes and says the following:

1. The undersigned is ____________________________[title or capacity] of ____________________________[name of entity].

2. To the best knowledge of the undersigned,

   a. There are presently no defects in or liens, encumbrances or other claims against the Title to the property described in the Commitment for Title Insurance No. ________, having an Effective Date of ________________, issued by [insert the name of the company insuring] (hereinafter referred to as “the Company”) other than as disclosed in exceptions Nos. ________ on Schedule B - Section 2 of said commitment, other than the following: (If none, state “None”); and

   b. There are presently no inchoate rights which may ripen into any defect, lien, encumbrance or claim against the Title to said property except as may be created by any instrument or action required in Schedule B - Section 1 of said commitment, other than the following: (If none, state “None”)

3. The undersigned makes these statements after having questioned all of the other officers, directors, employees, partners and agents, if any, of [name of entity] who have had any substantial contact with any transaction or negotiation involving the property described in said commitment.
4. The undersigned makes these statements for the purpose of inducing the Company to issue the endorsement attached hereto as Exhibit A to one or more of the owner's or loan policies issued pursuant to the said Commitment for Title Insurance.

Dated: ______________________________
____________________________________
[Name of Affiant]

The following indemnity is given to the Company as a further inducement to it to issue the said endorsement, as aforesaid.

The undersigned hereby indemnifies the Company against any loss which the Company may suffer by virtue of any valid claim made under the said endorsement based on the existence of any defect in or lien, encumbrance, right or claim against or with respect to the Title to the aforesaid property which was not disclosed in the above affidavit but which should have been so disclosed in order to make all statements in the affidavit true and correct. The undersigned understands such losses may include court costs and attorney's fees expended by the Company in defending the title or interest of the insured against such lien, encumbrance, right or claim.

The undersigned further agrees to pay all court costs and reasonable attorney's fees which the Company may expend in enforcing the terms of this indemnity agreement.

Dated: ______________________________

[ Name of Company ]

By: _________________________________
[Name and title of officer]

[Standard form jurat.]

[Standard form acknowledgment, if useful.]
ENDORSEMENT

Attached to Policy No. ____________

Issued By
[FNTG BRAND]

The Company agrees that it will not assert the provisions of Exclusions from Coverage 3(a), (b), or (e) to deny liability for loss or damage otherwise insured against under the terms of the policy solely by reason of the action or inaction or Knowledge, as of Date of Policy, of ______________ whether or not imputed to the Insured by operation of law, provided ______________ acquired the Insured as a purchaser for value without Knowledge of the asserted defect, lien, encumbrance, adverse claim, or other matter insured against by the 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]

[FNTG BRAND]

BY: __________________________________________

ALTA Endorsement Form 15-06
(Nonimputation – Full Equity Transfer) (6/17/06)
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ENDORSEMENT

Attached to Policy No. _____________

Issued By
[FNTG BRAND]

For purposes of the coverage provided by this endorsement, _____________ ("Additional Insured") is added as an Insured under the policy. By execution below, the Insured named in Schedule A acknowledges that any payment made under this endorsement shall reduce the Amount of Insurance as provided in Section 10 of the Conditions.

The Company agrees that it will not assert the provisions of Exclusions from Coverage 3(a), (b), or (e) to deny liability for loss or damage otherwise insured against under the terms of the policy solely by reason of the action or inaction or Knowledge, as of Date of Policy, of ______________ whether or not imputed to the Additional Insured by operation of law, to the extent of the percentage interest in the Insured acquired by Additional Insured as a purchaser for value without Knowledge of the asserted defect, lien, encumbrance, adverse claim, or other matter insured against by the 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.

AGREED AND CONSENTED TO:

INSURED

[Witness clause optional]

[FNTG BRAND]

BY: ______________________________
ENDORSEMENT

Attached to Policy No. ____________

Issued By
[FNTG BRAND]

The Company agrees that it will not assert the provisions of Exclusions from Coverage 3(a), (b), or (e) to deny liability for loss or damage otherwise insured against under the terms of the policy solely by reason of the action or inaction or Knowledge, as of Date of Policy, of __________ whether or not imputed to the entity identified in paragraph 3 of Schedule A or to the Insured by operation of law, but only to the extent that the Insured acquired the Insured's interest in entity as a purchaser for value without Knowledge of the asserted defect, lien, encumbrance, adverse claim, or other matter insured against by the 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]

[FNTG BRAND]

BY: ______________________________
MEZZANINE FINANCING ENDORSEMENT
ALTA ENDORSEMENT- FORM 16-06

PURPOSE

This endorsement provides insurance to a lender whose loan is secured not by a lien against the land but rather by some form of security against the beneficial interest of the business entity that owns the Land. The security may be a pledge of and security interest in the stock in a corporation, partnership interest in a partnership, or membership interest in a limited liability company. The endorsement is made a part of an Owner’s Policy rather than a Loan Policy, because the lender’s personal property security interest is not being insured so no Loan Policy is issued to the lender. The endorsement assigns the rights under the policy of the Insured owner of the Land to the defined Mezzanine Lender. The endorsement provides that the Company will not assert as a defense matters known to the Insured owner, as long as they were not known to the Mezzanine Lender (see also Non-Imputation Endorsements under Section 15). It further provides that the Company will not deny liability on the basis that ownership interests in the Insured have been transferred to or acquired by the Mezzanine Lender.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

Conditions paragraph 7 (b) is amended to provide that the Company can terminate its liability under the policy by paying the Mezzanine Lender rather than the Insured. Exclusions from Coverage Nos. 3 (a), (b), (c) or (e) are amended with respect to defects, liens, encumbrances, adverse claims or other matters which were not known to the Mezzanine Lender, or failure of the Mezzanine Lender to pay value.

BASIS FOR PROVIDING COVERAGE

You may issue this endorsement to an ALTA Owner’s Policy if all of the following requirements are met:

1. The Insured (corporation, partnership, limited liability company or other business entity) has agreed to assign to the Mezzanine Lender the amounts payable under the policy as indicated by the Insured’s signature at the end of the Endorsement, and the terms of the endorsement are accepted by the Mezzanine Lender as indicated by its signature on the Endorsement.
2. The requirements for issuance of a Non-Imputation Endorsement have been met (see Section 15). That is, we must receive adequate assurances that there are no matters known by the party or parties from whom knowledge is to be imputed. In most cases this assurance would be in the form of a sworn statement from the party together with a satisfactory indemnity.

3. If the Insured is also insured by the Company under a different Owner's Policy, the benefits of that policy must be coordinated with the benefits of the policy to which the endorsement will be attached. This can be accomplished by adding to Schedule B of the already issued policy the following: “It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under Owner’s Policy Number [new policy], and the amount so paid shall be deemed a payment under this policy to the Insured owner.”

**AUTHORITY FOR ISSUANCE OF THIS COVERAGE**

This endorsement may not be issued without the approval of the Company’s underwriting advisor.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

[Return to Table of Contents]
ENDORSEMENT
Attached to Policy No. __________

Issued By
[FNTG BRAND]

1. The Mezzanine Lender is: _______________________________ and each successor in ownership of its loan ("Mezzanine Loan") reserving, however, all rights and defenses as to any successor that the Company would have had against the Mezzanine Lender, 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 as affecting Title.

2. The Insured
   a. assigns to the Mezzanine Lender the right to receive any amounts otherwise payable to the Insured under this policy, not to exceed the outstanding indebtedness under the Mezzanine Loan; and
   b. agrees that no amendment of or endorsement to this policy can be made without the written consent of the Mezzanine Lender.

3. The Company does not waive any defenses that it may have against the Insured, except as expressly stated in this endorsement.

4. In the event of a loss under the policy, the Company agrees that it will not assert the provisions of Exclusions from Coverage 3(a), (b) or (e) to refuse payment to the Mezzanine Lender solely by reason of the action or inaction or Knowledge, as of Date of Policy, of the Insured, provided
   a. the Mezzanine Lender had no actual Knowledge of the defect, lien, encumbrance or other matter creating or causing loss on Date of Policy.
   b. this limitation on the application of Exclusions from Coverage 3(a), (b) and (e) shall
      i. apply whether or not the Mezzanine Lender has acquired an interest (direct or indirect) in the Insured either on or after Date of Policy, and
      ii. benefit the Mezzanine Lender only without benefiting any other individual or entity that holds an interest (direct or indirect) in the Insured or the Land.

5. In the event of a loss under the Policy, the Company also agrees that it will not deny liability to the Mezzanine Lender on the ground that any or all of the ownership interests (direct or indirect) in the Insured have been transferred to or acquired by the Mezzanine Lender, either on or after the Date of Policy.

6. The Mezzanine Lender acknowledges
   a. that the amount of insurance under this policy shall be reduced by any amount the Company may pay 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 hereafter executed by an Insured and which is a charge or
lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy; and

b. that the Company shall have the right to insure mortgages or other conveyances of an interest in the Land, without the consent of the Mezzanine Lender.

7. If the Insured, the Mezzanine Lender or others have conflicting claims to all or part of the loss payable under the Policy, the Company may interplead the amount of the loss into Court. The Insured and the Mezzanine Lender shall be jointly and severally liable for the Company's cost for the interpleader and subsequent proceedings, including attorneys' fees. The Company shall be entitled to payment of the sums for which the Insured and Mezzanine Lender are liable under the preceding sentence from the funds deposited into Court, and it may apply to the Court for their payment.

8. Whenever the Company has settled a claim and paid the Mezzanine Lender pursuant to this endorsement, the Company shall be subrogated and entitled to all rights and remedies that the Mezzanine Lender may have against any person or property arising from the Mezzanine Loan. However, the Company agrees with the Mezzanine Lender that it shall only exercise these rights, or any right of the Company to indemnification, against the Insured, the Mezzanine Loan borrower, or any guarantors of the Mezzanine Loan after the Mezzanine Lender has recovered its principal, interest, and costs of collection.

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.

AGREED AND CONSENTED TO:

(Name of Insured)  (Name of Mezzanine Lender)

By: ____________________________  By: ____________________________

[Witness clause optional]

[FNTG BRAND]

BY: ____________________________

ALTA Endorsement Form 16-06
(Mezzanine Financing) (6/17/06)
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These endorsements are designed to provide insurance against loss if the Land does not abut or have actual vehicular and pedestrian access to and from a specific open and publicly maintained street by way of existing curb cuts or entries. In addition, ALTA 17.1-06 provides the same coverage with respect to a specific easement insured in Schedule A which connects the Land to a specific public street. The ALTA 17.2-06 adopts a version of the generic “Utilities Facilities” endorsement which covers access to utility installations in a public street.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

The ALTA policies do not insure a particular means of access. The policies do insure against loss or damage by reason of a lack of “a right of access to and from the Land”. The policy, as written, does not address the extent of that access, nor the location or means by which that access is utilized.

The definition of “Land” contained in the policy specifically excludes property beyond the bounds of the area described in Schedule A. Furthermore, Land is so defined as to not include any “right, title, interest, estate or easement in abutting streets”.

These endorsements go quite a bit further. They specifically address the location, use and quality of access. The ALTA 17.2-06 will be discussed separately.

BASIS FOR PROVIDING COVERAGE (ALTA 17-06 and 17.1-06)

These endorsements have more extensive requirements than the old “access” type endorsements, and include the need for a comprehensive survey. The examiner must verify:

1. The named street is in fact a **physically open** and **public** street;
2. The land **abuts** thereon; and
3. There is nothing to prohibit access from the Land either legally or physically (i.e., not only is there access as a matter of law, at the currently existing points of access, but there is also no physical impediment to access).

4. There are no limitations on access imposed at the local, county, state or federal levels, depending on who controls or maintains the street and how it was created.

**Example:** A portion of Blackacre was condemned for an Interstate Highway. In the condemnation, the State also condemned all abutting rights of access. Because of the way the road was built, the owner of Blackacre can actually drive his car onto the highway at several points along this boundary.

This is an example of a situation where there is a physical means of access, but no legal right of access. This endorsement could not be given in this situation.

The examiner must be very careful to determine which governmental authorities (which can include city, county, state and/or federal agencies) have jurisdiction over a particular street. The examiner must also check the surrounding land and the chain of title to determine if access was limited when the land was a part of a larger tract. If such a limitation exists, and all allowable curb cuts or points of access have been used in conjunction with other parts of the original tract, there may be no access for the land as it currently is described, even though it does abut an open and public street. A survey showing present, physically open access must be supplied to the Company. Any such request for any variation of the endorsement language or a request to issue the endorsement without a survey must be approved by the Company underwriting advisor.

In addition to compliance with items 1 through 4 above, in order to issue the ALTA 17.1-06, the examination and insurance of the easement in question must be undertaken pursuant to customary underwriting guidelines.

**CAUTION:** IF THE LAND ABUTS A PHYSICALLY OPEN PRIVATE STREET THIS COVERAGE MAY NOT BE GIVEN WITHOUT APPROVAL OF THE COMPANY’S UNDERWRITING ADVISOR.

**BASIS FOR PROVIDING COVERAGE for ALTA 17.2-06 (Utility Access)**

What is commonly referred to as the "Utility Facility" endorsement requires us to do all of the following:
(1) Review the survey to ascertain that the Land adjoins the public way in which the utility lines are located with no gaps or gores in between.

(2) Determine the insurability of private easements (if any) providing services listed on the endorsement and verify they are shown on the survey and abut the property with no gaps or gores.

(3) Verify that the land is improved.

(4) Obtain an affidavit from the seller or borrower that the Land is serviced by all of the recited utilities.

Special attention should be paid to the possibility that although other utilities are in place and service is provided by a lateral connection to installations in the public right of way, a septic system is being utilized in lieu of connecting to a public sewer system, especially in newer industrial parks, large commercial tracts or rural residential properties. If that is the factual situation, or any other listed utility is provided via any type of private easement that would otherwise not be insurable, you must leave the box on the endorsement which corresponds to such utility unchecked, thereby indicating that no access is being insured.

Even if you have not specifically insured the private easement rights in Schedule A, you must do the same search and analysis of the benefit to the Land as if you had insured them, including making sure they are still viable and have not been released or terminated either voluntarily or involuntarily through foreclosure or other process (i.e., tax sale, forfeiture, etc.) if you will be relying on a private easement to insure access to utilities.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting advisor before complying with any request for a modification.

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ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured if, at Date of Policy (i) the Land does not abut and have both actual vehicular and pedestrian access to and from FILL IN (the "Street"), (ii) the Street is not physically open and publicly maintained, or (iii) the Insured has no right to use existing curb cuts or entries along that portion of the Street abutting the Land.

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]

[FNTG BRAND]
BY: ______________________________
ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured if, at Date of Policy (i) the easement identified as FILLIN in Schedule FILLIN (the "Easement") does not provide that portion of the Land identified as FILLIN in Schedule FILLIN both actual vehicular and pedestrian access to and from FILLIN (the "Street"), (ii) the Street is not physically open and publicly maintained, or (iii) the Insured has no right to use existing curb cuts or entries along that portion of the Street abutting the Easement.

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]

[FNTG BRAND]

BY: ______________________________
ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured by reason of the lack of a right of access to the following utilities or services: [CHECK ALL THAT APPLY]

- Water service
- Natural gas service
- Telephone service
- Electrical power service
- Sanitary sewer
- Storm water drainage

either over, under or upon rights-of-way or easements for the benefit of the Land because of:

1. a gap or gore between the boundaries of the Land and the rights-of-way or easements;
2. a gap between the boundaries of the rights-of-way or easements; or
3. a termination by a grantor, or its successor, of the rights-of-way or easements.

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]

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 17.2-06
(Utility Access) (10/16/08)
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ENDORSEMENT MANUAL – Fidelity National Title Group, Inc.  

SECTION 18

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TAX PARCEL

ALTA ENDORSEMENT - FORM 18-06 (Single)
AND 18.1 (Multiple) [with tax sale protection]

PURPOSE

These endorsements cover the tax parcel or tax identification numbers often included in the policy for informational purposes. Form 18-06 insures against loss if the tax number shown does not include all the Land described in the policy or includes land not described in the policy. Form 18.1-06 is for use when there are multiple parcels and multiple numbers. In addition, Form 18.1-06 insures that any easement included as an insured parcel in Schedule A or C will not be wiped out by the subsequent foreclosure of taxes on the servient tenement. This endorsement does not provide coverage for the Insured if the easement itself is separately assessed and the Insured fails to pay such taxes.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

This endorsement for the Insured does not expressly amend any provisions of the Policy. It does affect on paragraph 3(d) of the Exclusions from Coverage (“Defects, liens, encumbrances, adverse claims or other matters: ... attaching or created subsequent to Date of Policy...”) in that the non-payment of real property taxes, or the foreclosure of the lien imposed by those taxes on the servient tenement over which the easement exists, will, in the majority of cases, be a post policy occurrence.

BASIS FOR PROVIDING COVERAGE

To issue ALTA Form 18-06, the above the legal description in Schedule A or C must be carefully compared to the legal description on the tax rolls to verify that they cover the exact same property, that neither includes additional lands, and that all tax parcel numbers are correctly shown. If the Land includes only a portion of a tax description, these endorsements may not be given.

To issue ALTA Form 18.1-06, the above comparison should be made for each parcel included. In addition, to give the easement coverage, if appropriate, the following matters must be taken into consideration:
The easement referred to in this endorsement must be shown in the Policy in Schedule A or C as an insured parcel. This will insure that a complete search of title to the servient parcel encumbered by the easement, along with a determination of the status of taxes and assessments, has been done.

An absolute essential element will be the existence of state statutes or binding case law that specifically protects the validity of any properly created easement from the effects of any non-payment of taxes or the foreclosure of the lien of such taxes as imposed on the servient tenement. This protection must exist no matter when the easement is created or when the taxes are imposed.

The most common factual scenarios are:

1. Easement created. Taxes for the year in which easement is created are all paid. Taxes for subsequent years go into foreclosure. State law provides purchaser at tax sale takes subject to easement.
2. Same as 1, but state law provides purchaser at tax sale to get land free and clear of easement interest.
3. Outstanding taxes owed. Easement created. State law provides that foreclosure of taxes effectively forecloses easement rights. State law may not require notice of tax foreclosure to holder of easement rights.
4. Easement created. Taxes are assessed after the creation of the easement, but state law provides that the lien of the taxes dates back to a date preceding the creation of the easement. Again, state law provides that foreclosure of taxes effectively forecloses easement rights.
5. Taxes or special assessments may be scheduled to be paid off over a number of years in the future. In many jurisdictions these are called “bonds” or “future assessments”. Even if the current year’s liabilities are paid, the failure to pay any of the future bonds may result in a lien that dates back to the original creation of the liability which, if it predates the creation of the easement, could cause the easement to be foreclosed when those bond amounts are foreclosed.

Obviously, in examples 2, 3, 4 and 5 above we would not be able to issue this coverage. If this coverage is requested by the Lender, the Insured Mortgage must be secured by the referenced easement.

AUTHORITY FOR ISSUANCE OF ENDORSEMENT
If there is no binding authority in the state wherein the property lies, any request for this endorsement must be submitted to the Company’s underwriting adviser for approval.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

Return to Table of Contents
ENDORSEMENT

Attached to Policy No. ____________

Issued By

[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured by reason of the Land being taxed as part of a larger parcel of land or failing to constitute a separate tax parcel for real estate taxes.

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]

[FNTG BRAND]

BY: ______________________________
ENDORSEMENT

Attached to Policy No. ____________

Issued By
[FNTG BRAND]

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

1. those portions of the Land identified below not being assessed for real estate taxes under the listed tax identification numbers or those tax identification numbers including any additional land:

   Parcel: PARCEL 1
   Tax Identification Number(s): TAX ID 1

   Parcel: PARCEL 2
   Tax Identification Number(s): TAX ID 2

   Parcel: PARCEL 3
   Tax Identification Number(s): TAX ID 3

2. the easements, if any, described in Schedule A being cut off or disturbed by the nonpayment of real estate taxes, assessments or other charges imposed on the servient estate by a governmental authority.

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.

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 18.1-06
(Multiple Tax Parcel) (6/17/06)
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CONTINUITY

ALTA ENDORSEMENT - FORM 19-06 (MULTIPLE PARCELS) [within Land]  
AND FORM 19.1-06 (SINGLE PARCEL) [with property other than Land]

PURPOSE

ALTA Form 19-06 is designed to provide insurance that (1) each parcel, in a policy which insures multiple parcels, is contiguous to at least one other parcel insured by the policy, or (2) if some parcels are not contiguous to at least one other parcel, that certain parcels are contiguous to certain other parcels. The ALTA Form 19.1-06 provides coverage that the Land in the policy is contiguous to some other specific parcel not insured in the policy.

SECTION OF POLICY AMENDED BY ENDORSEMENT

The ALTA policies do not insure contiguity. These endorsements add an insuring provision and additional liability.

BASIS FOR PROVIDING COVERAGE

A survey must be presented to the Company. The survey must adequately depict the absence of gaps, strips or gores insured against, and contain a statement by the surveyor that the parcels are contiguous. Providing the coverage on some other basis, for example because the parcels are adjacent lots in the same subdivision or because the line which separates them in a metes and bounds description has identical points of beginning and identical calls to describe that line, can only be done with the approval of your Company underwriting advisor.

The problem that often arises with the ALTA 19.1-06 is that there is not a single survey of both the Land included within the policy and the additional parcel as to which contiguity is being insured. Again, any request to issue this endorsement without a single survey showing both parcels with a certification by the surveyor that the parcels are contiguous must be referred to your Company underwriting advisor.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.
ENDORSEMENT
Attached to Policy No. _____________

Issued By
[FNTG BRAND]

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

1. The failure [of the ______ boundary line of Parcel A] of the Land to be contiguous to [the ______ boundary line of Parcel B] [for more than two parcels, continue as follows: “; of [the ______ boundary line of Parcel B] of the Land to be contiguous to [the ______ boundary line of Parcel C] and so on until all contiguous parcels described in the policy have been accounted for]; or

2. The presence of any gaps, strips, or gores separating any of the contiguous boundary lines described above.

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]
ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

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

1. The failure of the Land to be contiguous to [describe the land that is contiguous to the Land by its legal description or by reference to a recorded instrument – e.g. “. . . that certain parcel of real property legally described in the deed recorded as Instrument No. ___________, records of County, State of _____________] along the ______ boundary line[s]; or

2. The presence of any gaps, strips, or gores separating the contiguous boundary lines described above.

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]

[FNTG BRAND]

BY: ______________________________
FIRST LOSS
ALTA ENDORSEMENT FORM 20-06

PURPOSE

This endorsement is designed to alter the established criteria for determining when a loss is recognized under a loan policy. Loss is normally the difference between the value of the property with or without the defect, lien or encumbrance insured against. Under normal circumstances, a loss would be difficult to determine until the land was sold after foreclosure. If the sale was for an amount less than the debt, and the difference between the sales price and the indebtedness was caused by a matter covered by the policy, the lender could claim a loss. Consequently, an insured lender would normally be required to foreclose to prove this loss before being able to make a claim. This endorsement, to be issued only when there is more than one insured parcel, allows a loss to be recognized whenever a title defect materially impairs the value of a parcel securing the loan without requiring acceleration of the debt and foreclosure against any of the parcels securing the loan. There was a technical correction of this endorsement by ALTA on 10/13/2011, but they did not change the ALTA adopted date.

SECTION OF THE POLICY AMENDED BY THE ENDORSEMENT

This endorsement allows assertion of loss on the basis of impairment of security as if we had insured separate loans secured by separate parcels, even though the insured transaction is actually a single loan secured by multiple parcels. The Company and the courts have applied Condition 8 to the determination of what is a loss in such a way that “loss”, as described in the endorsement, would be considered an interim situation, contingent upon the remaining property failing to provide adequate security for the unpaid debt. For that reason, this endorsement is often described as Contingent Loss (First Loss).

BASIS FOR PROVIDING COVERAGE

While allowing the lender to claim a loss without foreclosing against any of the parcels, included in the endorsement form is an acknowledgement of the subrogation rights of the Company, which includes entitlement to reimbursement in a case where payment under the terms of this endorsement might result in a windfall for a lender who later was fully repaid from the remaining property.
CAUTION: YOU MUST CONFER WITH THE COMPANY’S UNDERWRITING ADVISOR TO DETERMINE THE COMPANY’S WILLINGNESS TO ISSUE THIS ENDORSEMENT IN A GIVEN STATE. A LENDER WHO IS ALERT TO THE ANTI-DEFICIENCY PROBLEM OF THIS COVERAGE MAY DELIBERATELY HAVE THE BORROWER REMOVE WARRANTIES FROM THE SECURITY INSTRUMENT SO THAT ONLY PAYMENT DEFAULTS ARE ACTIONABLE. ADVISE THE COMPANY’S UNDERWRITING ADVISOR IF THIS IS THE CASE.

The coverage is not appropriate for loans with only one parcel.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

Return to Table of Contents
ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

This endorsement is effective only if the Collateral includes at least two parcels of real property.

1. For the purposes of this endorsement
   a. “Collateral” means all property, including the Land, given as security for the Indebtedness.
   b. “Material Impairment Amount” means the amount by which any matter covered by the policy for which a claim is made diminishes the value of the Collateral below the Indebtedness.

2. In the event of a claim resulting from a matter insured against by the policy, the Company agrees to pay that portion of the Material Impairment Amount that does not exceed the extent of liability imposed by Section 8 of the Conditions without requiring
   a. maturity of the Indebtedness by acceleration or otherwise,
   b. pursuit by the Insured of its remedies against the Collateral, or
   c. pursuit by the Insured of its remedies under any guaranty, bond or other insurance policy.

3. Nothing in this endorsement shall impair the Company’s right of subrogation. However, the Company agrees that its right of subrogation shall be subordinate to the rights and remedies of the Insured. The Company’s right of subrogation shall include the right to recover the amount paid to the Insured pursuant to Section 2 of this endorsement from any debtor or guarantor of the Indebtedness, after payment or other satisfaction of the remainder of the Indebtedness and other obligations secured by the lien of the Insured Mortgage. The Company shall have the right to recoup from the Insured Claimant any amount received by it in excess of the Indebtedness up to the amount of the payment under Section 2.

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.

[FNTG BRAND]

BY: ______________________________

ALTA Endorsement Form 20-06
(First Loss – Multiple Parcel Transactions) (6/17/06)
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CREDITORS' RIGHTS
ALTA ENDORSEMENT FORM 21-06

This endorsement was decertified by ALTA on 2/8/10 and is no longer available.
LOCATION
ALTA ENDORSEMENT – FORM 22-06
AND Form 22.1-06 (with map)
PURPOSE

These endorsements insure against loss or damage if an improvement of the type identified in the endorsement having the address set forth in the endorsement is not located on the Land. In addition, the 22.1-06 insures that a copy of a recorded plat or map that may be attached as an exhibit to the endorsement accurately reflects the location and dimensions of the Land as shown in the public records.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

This endorsement does not expressly amend any provisions of the Policy.

BASIS FOR PROVIDING COVERAGE

There must be some type of independent verification of the information requested, usually from a survey or an appraisal. The address should also be verified from the tax records, as should the fact that the property is being taxed as improved. The description of the type of improvement ["dwelling", “residence” etc.] should be taken from the appraisal or survey, or determined by a direct inspection of the premises.

The use of the 22.1-06, to which a copy of a recorded plat or map may be attached, is not universal. The document to be attached as an exhibit to the endorsement should be limited to copies of instruments, such as plat maps, taken directly from the public records. The use of a survey or a sketch taken from other sources that includes more or different information than the recorded plat could expose the Company to increased liability.

AUTHORITY FOR ISSUANCE OF THIS COVERAGE

The ALTA Form 22.1-06 endorsement may not be issued without the approval of the Company’s underwriting advisor.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.
ENDORSEMENT

Attached to Policy No. ___________

Issued By
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured by reason of the failure of a FILL IN, known as FILL IN, 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]

[FNTG BRAND]

BY: ______________________________
ENDORSEMENT
Attached to Policy No. ___________

Issued By
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured by reason of the failure of (i) a FILL IN, known as FILL IN, 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]

[FNTG BRAND]

BY: ______________________________
ENDORSEMENT MANUAL – Fidelity National Title Group, Inc.

SECTION 23

CO-INSURANCE-SINGLE POLICY
ALTA ENDORSEMENT – FORM 23-06

PURPOSE

This endorsement was designed to facilitate the delivery of a single policy when co-insurance with other underwriters is involved with allocation of liability by endorsement from each co-insurer.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

It does not amend any section of the policy, but rather operates to incorporate the terms and conditions of another policy into our policy.

BASIS FOR PROVIDING COVERAGE

Many large transactions use the concept of Co-insurance to spread the risk between underwriters. Basically, co-insurers each share a percentage or dollar amount of any claim. Each is primarily liable for their share of risk which means they share in the risk from the first dollar of loss. This is accomplished by each company issuing a separate policy in the amount of risk they have undertaken, and each policy would have an exception or a note to acknowledge that other policies share these same risks. This differs from Reinsurance, in which one company issues a policy and is primarily liable for the whole amount but purchases reinsurance from other underwriters to spread that risk to secondary (and other) levels of liability. In reinsurance, the ALTA policy issued by the primary insurer is the source of coverage to the Insured. The liability of the Reinsurers is to the Ceder (the one who purchased the Reinsurance) under the terms of the Reinsurance Agreement. The terms of that agreement may allow direct access to the Reinsurers, but that is a different topic, and will not be discussed in this section.

Instead of having multiple policies from multiple underwriters, each in a percentage or fractional dollar amount, which in a multi-site deal could result in tens or hundreds of policies, the Insured may want to have just one policy for each site that all underwriters agree will act as their policy in form and substance. This can be accomplished by use of this endorsement attached to the original or copies of the policy written by what is sometimes called the "lead underwriter" or "Issuing Co-insurer".

To issue this endorsement to some other underwriter’s policy (when we are NOT the lead underwriter) you must do the following:

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1. Open a file and produce a policy with our policy number on it. That policy must agree in all aspects, except amount, with the policy written by the lead underwriter. If you do not agree with any of the provisions or coverages issued by the lead underwriter, you cannot issue this endorsement.

2. Prepare and deliver this endorsement (not our underlying policy) to the Insured. Often the endorsement will be prepared by the “Issuing Co-Insurer”, who has collected all of the policy amounts and file information. If that is the case, you can sign the endorsement after verifying:

   - The Issuing Co-Insurer’s policy number is in the first blank in the heading.
   - In the chart we are shown as one of the Co-Insurers. The Amount of Insurance, Percentage of Liability, policy information and claims address must be checked. The lead underwriter (or “Issuing Co-insurer” in the endorsement) may fill in the Amounts and Percentages for the policies and send it to you for our policy number and signature. Keep a copy of the signed endorsement in our policy file.

3. Report and remit premium on the amount of our policy that you produced for the file.

   To issue this endorsement where we are the lead underwriter (“Issuing Co-Insurer”) you must do the following:

   1. Open a file and produce a policy with our policy number on it. THE AMOUNT OF THIS POLICY IS NOT THE AGGREGATE POLICY AMOUNT ON THE ENDORSMENT. The Amount of Insurance on Schedule A of the Policy must be the Amount of Insurance allocated to us. It can be additionally shown as a percentage of the Aggregate Amount of Insurance amount reflected on the endorsement. The policy should contain a footnote similar to the following:

      “This policy is issued contemporaneously with the policies reflected on the Co-Insurance Endorsement attached hereto, which policies total the Aggregate Amount of Insurance as shown therein. It is understood and agreed that for all loss or aggregate losses against which said policies protect, the Company shall be liable only for the Percentage of Liability up to the Amount of Insurance as allocated to the Company therein. In no event shall the Company be liable for loss in excess of the Amount of Insurance as shown therein.”

   2. Prepare a sample Endorsement with the information supplied by the other underwriters. Send to the other underwriters so they may fill in any of their missing policy information in the chart and execute.

   3. Report the policy.

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MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

Return to Table of Contents
ENDORSEMENT

Attached to Policy No. [lead policy]
Issued by
[lead policy issuer] ("Issuing Co-Insurer")

CO-INSURANCE ENDORSEMENT

Attached to and made a part of Issuing Co-Insurer's Policy No. [lead policy] ("Co-Insurance Policy"). Each title insurance company executing this Co-Insurance Endorsement, other than the Issuing Co-Insurer, shall be referred to as "Co-Insurer." Issuing Co-Insurer and each Co-Insurer are collectively referred to as "Co-Insuring Companies".

1. By issuing this endorsement to the Co-Insurance Policy, each of the Co-Insuring Companies adopts the Co-Insurance Policy's Covered Risks, Exclusions, Conditions, Schedules and endorsements, subject to the limitations of this endorsement.

<table>
<thead>
<tr>
<th>Co-Insuring Companies</th>
<th>Name and Address</th>
<th>Policy Number [File Number]</th>
<th>Amount of Insurance</th>
<th>Percentage of Liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issuing Co-Insurer</td>
<td>$</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Co-Insurer</td>
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<td>Co-Insurer</td>
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<tr>
<td>Aggregate Amount of</td>
<td>$</td>
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</tr>
<tr>
<td>Insurance</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Each of the Co-Insuring Companies shall be liable to the Insured only for its Percentage of Liability of: (a) the total of the loss or damage under the Co-Insurance Policy, in no event greater than its respective Amount of Insurance set forth in this endorsement; and (b) costs, attorneys' fees and expenses provided for in the Conditions.

3. Any notice of claim and any other notice or statement in writing required to be given under the Co-Insurance Policy must be given to each of the Co-Insuring Companies at its address set forth above.

4. Any endorsement to the Co-Insurance Policy issued after the date of this Co-Insurance Endorsement must be signed on behalf of each Co-Insuring Company by its authorized officer or agent.

5. This Co-Insurance Endorsement is effective as of the Date of Policy of the Co-Insurance Policy. This Co-Insurance Endorsement may be executed in counterparts.

This endorsement is issued as part of the Co-insurance 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 to it.

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ALTA 23-06 Continued

[Witness Optional]

DATED:
Issuing Co-Insurer:
[lead underwriter]
BY: _____________________________

Co-Insurer:
[BLANK] Title Insurance Company
By: ______________________________

Co-Insurer:
[BLANK] Title Insurance Company
By: ______________________________

Co-Insurer:
[BLANK] Title Insurance Company
By: ______________________________

[Additional Co-Insurer signatures may be added if needed.]
DOING BUSINESS

ALTA ENDORSEMENT - FORM 24-06

PURPOSE

This endorsement for a loan policy provides coverage to the lender concerning the consequences of the failure to comply with state “doing business” laws.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

Exclusions from Coverage 4 of the Loan Policy excludes from coverage any loss from unenforceability of the lien of the insured mortgage resulting from the lender’s failure to comply with any doing-business laws of the state where the Land is located.

BASIS FOR PROVIDING COVERAGE

Most states regulate the lending industry within the state. Many require lenders to be authorized to “do business” if they are chartered or incorporated in another state or jurisdiction. This type of regulation can be found in statutes or administrative/regulatory policies. The penalties for failure to follow these rules often include fines or the requirement to appoint a specific state agency (such as the secretary of state or financial regulatory agency) as agent of service of process, neither of which affects the priority or enforceability of the lien of the Insured Mortgage.

HOWEVER, some states designate that the failure to comply with the regulations results in the mortgage or deed of trust being void or voidable. THEREFORE, you must ascertain that the state in which the Land is located does not have any statutory or regulatory policies or procedures that impact the priority or prohibit the enforcement of mortgages or deeds of trust held by lenders not authorized or licensed to do business in that state. Your Company underwriting advisor should be consulted for issuance within your state.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.
ENDORSEMENT

Attached to Policy No._____

Issued by

[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured by reason of the invalidity or unenforceability of the lien of the Insured Mortgage on the ground that making the loan secured by the Insured Mortgage constituted a violation of the "doing business" laws of the State where the Land is located because of the failure of the Insured to qualify to do business under those laws.

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 to it.

[Witness Optional]

DATED:

[FNTG BRAND]

BY: _____________________________

AUTHORIZED SIGNATORY
SAME AS SURVEY & SAME AS PORTION OF SURVEY
ALTA ENDORSEMENT – FORMS 25-06 AND 25.1-06

PURPOSE

These endorsements expand policy coverage by specifying that the description on Schedule A (or C) is legally identical to a description contained in a survey which incorporates differing language.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

No specific section of the policy is amended by these endorsements. However, additional coverage is added.

BASIS FOR PROVIDING COVERAGE

These endorsements are available for owner’s and loan policies. They insure that the Land as described in Schedule A is legally identical with the land as described in the survey identified in the endorsement, despite the fact that there is different language in each of the descriptions. The endorsement is usually requested for loan policies when the mortgage being insured contains a legal description which varies slightly when compared with Schedule A of the Policy or the survey submitted for the file.

This endorsement may be issued only after a careful review of the relevant legal descriptions and a determination that the legal descriptions are not ambiguous and, in fact, delineate the identical property, and are legally sufficient to convey title under state law. It is customary in some areas to require the surveyor to certify that the legal descriptions are one and the same.

The ALTA 25-06 is used when the entire legal description is identical to the entire legal description on the survey.

The ALTA 25.1-06 is used when the legal description in the Policy is one or more parcels on a survey that contains additional parcels besides the ones being insured. This is normally only an issue in a new development where we are being asked to rely on a survey of a larger development to insure less than all of that development. Care must be taken that the survey...
correctly reflects any internal improvements and dimensions, and includes sufficient information to make this determination.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

Return to Table of Contents
ENDORSEMENT
Attached to Policy No._____
Issued by
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured by reason of the failure of the Land as described in Schedule A to be the same as that identified on the survey made by ____________________________ dated _______________________, and designated Job No. _____.

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 to it.

[Witness Optional]

DATED:

[FNTG BRAND]

BY: ____________________________

AUTHORIZED SIGNATORY
ENDORSEMENT
Attached to Policy No.______
Issued by
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured by reason of the failure of the Land as described in Schedule A to be the same as that identified as [Example: Parcel A, B, C or Parcel 1, 2, 3] on the survey made by ____________________ dated _________________, and designated Job No. _____.

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 to it.

[Witness Optional]

DATED:
[FNTG BRAND]
BY: _____________________________
AUTHORIZED SIGNATORY

ALTA Endorsement Form 25.1-06
(Same as Portion of Survey) (10/16/08)
©American Land Title Association
SUBDIVISION

ALTA ENDORSEMENT - FORM 26-06

PURPOSE

The ALTA Form 26-06 insures against loss based upon the Land described in Schedule A (or Schedule C) not constituting a legally created parcel pursuant to applicable state statutes or local governmental regulations.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

This endorsement modifies exclusion 1(a)(iii) which excludes any law, ordinance, permit or governmental regulation which pertains to the subdivision of land. Historically, the title policy and search did not address such restrictions on the subdivision of land since they did not constitute matters that affected title or the ability to convey. In some areas of the country (most notably on the west coast) there have been enacted statutes and ordinances which make it a criminal act to convey by or use a legal description not in conformance with subdivision laws.

BASIS FOR PROVIDING COVERAGE

The issuance of this coverage is extra hazardous, and not to be taken lightly. You must have approval of your Company underwriting advisor. It requires the analysis of both state statutes and local building and use ordinances or laws. We are experiencing a rise in the number of counties across the country that are seeking ways to increase their fees, and have started to challenge legal descriptions that have been in use for, in one instance, over 70 years! You will need to have the following information to be able to discuss the matter with your Company underwriting advisor:

Items to consider:

1. State Statute:

   What are the provisions of the appropriate statute(s) regarding legally created parcels?

   Are there any penalties if a parcel of land does not conform to the statute(s)?
How severe are the penalties? Are documents using the non-conforming description void or not recordable? Even if recorded, are they held to be insufficient to give constructive notice to subsequent parties under the recording acts or statute of frauds in place in the state? Are mortgages which use a non-conforming description held to be unenforceable?

Does our parcel conform to the statute? If not, how not?

2. Local governmental regulations:

What are the provisions of the appropriate regulations regarding legally created parcels? These could be contained in the zoning ordinances, building use or permitting ordinances or anywhere in between.

Are there any penalties if a parcel of land does not conform to the regulations?

How severe are the penalties? Will the owner be unable to get a permit to build, modify, or re-hab? Will they (or the title company) be subject to civil fines or criminal action?

Does our parcel conform to the regulations? If not, how not?

3. Understand exactly what coverage the proposed Insured is expecting to obtain by this endorsement.

NOTE: Be careful, in modifying this endorsement pursuant to customer requests, not to Broaden the endorsement to provide coverage for other matters, such as development and zoning issues, that were not intended to be provided by this endorsement.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, as discussed in the Note above, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.
ENDORSEMENT
Attached to Policy No._______
Issued by
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured by reason of the failure of the Land to constitute a lawfully created parcel according to the subdivision statutes and local subdivision ordinances applicable to the Land.

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 to it.

[Witness Optional]

DATED:

[FNTG BRAND]

BY: _____________________________
AUTHORIZED SIGNATORY
USURY ENDORSEMENT
ALTA Form 27-06
PURPOSE

This endorsement is for use with an ALTA loan policy. It provides insurance against loss the
Insured may suffer if the Insured Mortgage is determined to be usurious under state statute.

NOTE: STATES WHERE USURY COVERAGE CANNOT BE GIVEN: ARKANSAS, FLORIDA,
KANSAS, MISSOURI, NEW JERSEY, NEW MEXICO, NEW YORK, OREGON,
 PENNSYLVANIA, TEXAS, AND WYOMING.

SECTION OF THE POLICY AMENDED BY THE ENDORSEMENT

This endorsement amends Exclusions 5 of the ALTA Loan Policy.

BASIS FOR PROVING COVERAGE

The term “usury” refers to the charging of an excessive rate of “interest” upon a loan or for the
forbearance of collection. The existence of usury depends entirely upon the specific wording of
the applicable statute or constitutional provision. This endorsement should be issued only if a
state statute exempts the specific type of lender, borrower or type transaction from its usury laws.
The endorsement cannot be issued if the exemption is based upon some type of mathematical
formulae or limit of interest rate. A court might designate other fees or charges as “interest” and
the result could provide an amount of interest that exceeds the statutory amount. The issuance of
usury coverage is extra-hazardous and you must confer with the Company’s underwriting advisor
for authority to issue this endorsement.

The endorsement can not be used in the following states without modification (which would no
longer make it an ALTA form) : Colorado, Georgia, Massachusetts, Michigan, and North Carolina.
These states impose a limitation on the interest that can be charged on loans that are otherwise
exempt from usury statutes. The following is additional language which must be added to the
endorsement:
Colorado: ...excepting any of said loss or damage as may be caused as a result of a determination that the interest rate as calculated is in excess of forty-five percent (45%) per annum.

Georgia: ...excepting any of said loss or damage as may be caused as a result of a determination that the interest rate as calculated is in excess of five percent (5%) per month.

Massachusetts: ...excepting any of said loss or damage as may be caused as a result of a determination that the interest rate as calculated is in excess of twenty percent (20%) per annum; unless notification is made to the Massachusetts Attorney General as required by Chapter 271, Section 49, Massachusetts General Laws.

Michigan: ...excepting any of said loss or damage as may be caused as a result of a determination that the interest rate as calculated is in excess of twenty-five percent (25%) per annum.

North Carolina: ...excepting any of said loss or damage as may be caused as a result of provisions for the charging of or payment of late charges as provided in Section 24-10.1 North Carolina statutes.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. **If the endorsement is modified, as discussed above, the endorsement is NOT an ALTA form and should not reference ALTA in the title.** You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

[Return to Table of Contents]
ENDORSEMENT

Attached to policy No. ________

Issued by
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured by reason of the invalidity or unenforceability of the lien of the Insured Mortgage as security for the Indebtedness because the loan secured by the Insured Mortgage violates the usury law of the state where the Land is located.

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

[FNTG BRAND]

BY: ______________________________
EASEMENT - DAMAGE OR ENFORCED REMOVAL
ENCROACHMENTS - BOUNDARIES AND EASEMENTS
ALTA ENDORSEMENT FORMS 28-06; 28.1-06 and 28.2-06

PURPOSE

ALTA Endorsement Form 28-06 (Easement - Damage or Enforced Removal)
Endorsement Form 28.06 was developed to insure against loss caused by the encroachment of a building located on the Land onto or over an easement shown as an exception in Schedule B, as disclosed by a survey or inspection of the Land. The loss must be based on an exercise of the easement and is only for damage to an existing building or enforced removal or alteration.

ALTA Endorsement Form 28.1-06 (Encroachments - Boundaries and Easements)
ALTA Endorsement Form 28.2-06 (Encroachments - Boundaries and Easements-Described Improvements)

Endorsement Forms 28.1-06 and 28.2 were developed to provide coverage with respect to certain boundary and easement encroachments. This coverage was previously included in the former ALTA 9 series. It is no longer contained within those endorsements other than the revised ALTA 9-06 and the new ALTA 9.7-06 and 9.10-06 (which additionally afford coverage as to violations of covenants, violations of setbacks, and damage to existing improvements because of development of minerals). The Endorsement Form 28.2-06 is used when the encroachment of a specific Improvement is meant to be covered and is specifically described at item 2. You may have a situation when you are willing to give coverage over encroachments by one improvement and not another, perhaps because one has been in place without objection for a longer period of time.

The coverages in these Endorsements include:

- The loss occasioned by the existence of an encroachment by an Improvement onto a neighboring property or onto an easement area within the insured Land, other than as disclosed in Schedule B exceptions.
- The loss occasioned by the existence of an encroachment by a neighboring Improvement onto the insured Land, other than as disclosed in Schedule B exceptions.
- Enforced removal of an insured Improvement based upon the encroachment into the easement area or onto neighboring property.
These forms allow the exclusion of an encroachment raised as an exception in Schedule B from the enforced removal coverage by reference to the exception that describes it, if we choose not to include that encroachment within the coverage afforded by these endorsements.

**SECTIONS OF POLICY AMENDED BY ENDORSEMENT**

No specific sections of the policy are amended by this endorsement; however additional coverages are added.

**BASIS FOR PROVIDING COVERAGE**

**ALTA Form 28-06**

An accurate current survey or inspection of the Land is required for coverage

The basis for giving these coverages can vary by local custom and law. You should always confer with your Company underwriting advisor to determine the appropriate risk. Some of the factors to take into consideration would be:

- Type and location of easement (Under ground? Overhead? Common utility? Residential or Commercial type of use [e.g., oil pipeline]?)
- Age of easement vs. age of improvement (Which came first?). Age of improvement with no interference historically.
- Size or amount of encroachment (De minimis or substantial? Across small portion or entire width?).
- Can easement still be used with encroachment? Are there other access points for maintenance?
- Cost of moving easement or improvement if the encroachment interferes with the maintenance and use of easement.

Note: The endorsement specifically covers only the “building” and not other improvements on the Land. Any request to expand this coverage must be discussed with your Company underwriting advisor.

**ALTA Form 28.1-06 and 28.2**

An accurate current survey of the Land is required for coverage on any policy other than a residential, 1-4 family Loan Policy.
Coverage 3a may be given provided:

For encroachments onto adjoining land
- Any encroachments disclosed by inspection, survey or other means, are also expressly excepted by description of such matter in Schedule B.

For encroachments onto easements located on the Land, either
- there are no easements excepted in Schedule B; or
- encroachments onto easements, disclosed by inspection, survey or other means, are also expressly excepted by description of such matter in Schedule B.

Coverage 3b may be provided if any of the following situations apply:

- for encroachments on the Land by a neighboring Improvement - any such encroachments disclosed by inspection, survey or other means, are expressly excepted by description of such matter in Schedule B.

Coverage 3c may be given if any of the following situations apply:

1. There are no easements excepted in Schedule B.
2. There are no encroachments onto easements excepted in Schedule B.
3. Encroachments shown are minor, would not interfere with maintenance of the easement and could not be forcibly removed under state law.

Coverage 3d may be given if any of the following situations apply:

1. There are no encroachments onto adjoining land excepted in Schedule B.
2. The encroachment is minor and could be removed at minimal cost.
3. The encroachment is minor; is not onto a parcel of vacant land; is not necessary to the support of the main structure; and your Company underwriting advisor is satisfied that a state court would not require its removal.

Note:
The Form 28.1-06 specifically covers only the “building” and not other improvements on the Land.
Any request to expand this coverage must be discussed with your Company underwriting advisor.
It allows all of the coverages to be denied for a specific named exception if you do not want to give coverage for that encroachment.

The Form 28.2-06 specifically covers only the Improvements described at item 2 of the endorsement. This allows you to choose which Improvements, and therefore which encroachments created by the specific improvement, for which you are granting coverage. Form 28.2 further varies in that it allows the coverage at 3.c and 3.d (enforced removal) only to be denied to matters specifically identified by exception numbers.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, *as discussed in the Note above, or for any other reason*, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

*Return to Table of Contents*
ENDORSEMENT
Attached to Policy No.____
Issued by
[FNTG BRAND]

The Company insures against loss or damage sustained by the Insured if the exercise of the
granted or reserved rights to use or maintain the easement(s) referred to in Exception (s)____ of
Schedule B results in:

(1) damage to an existing building located on the Land, or
(2) enforced removal or alteration of an existing building located on the Land.

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 to it.

[Witness Optional]

DATED:
[FNTG BRAND]

BY: _____________________________
AUTHORIZED SIGNATORY
ENDORSEMENT

Attached to Policy No. __________

Issued by

[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only, "Improvement" means an existing building, located on either the Land or adjoining land at Date of Policy and that by law constitutes real property.

3. The Company insures against loss or damage sustained by the Insured by reason of:
   a. An encroachment of any Improvement located on the Land onto adjoining land or onto that portion of the Land subject to an easement, unless an exception in Schedule B of the policy identifies the encroachment;
   b. An encroachment of any Improvement located on adjoining land onto the Land at Date of Policy, unless an exception in Schedule B of the policy identifies the encroachment;
   c. Enforced removal of any Improvement located on the Land as a result of an encroachment by the Improvement onto any portion of the Land subject to any easement, in the event that the owners of the easement shall, for the purpose of exercising the right of use or maintenance of the easement, compel removal or relocation of the encroaching Improvement; or
   d. Enforced removal of any Improvement located on the Land that encroaches onto adjoining land.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from the encroachments listed as Exceptions __________ of 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]

[FNTG BRAND]

By: ______________________________________

Authorized Signatory

ALTA Endorsement Form 28.1-06
(Encroachments-Boundaries and Easements) (4/2/12)
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ENDORSEMENT
Attached to Policy No. __________
Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only, “Improvement” means each improvement on the Land or adjoining land at Date of Policy, itemized below:

3. The Company insures against loss or damage sustained by the Insured by reason of:
   a. An encroachment of any Improvement located on the Land onto adjoining land or onto that portion of the Land subject to an easement, unless an exception in Schedule B of the policy identifies the encroachment;
   b. An encroachment of any Improvement located on adjoining land onto the Land at Date of Policy, unless an exception in Schedule B of the policy identifies the encroachment;
   c. Enforced removal of any Improvement located on the Land as a result of an encroachment by the Improvement onto any portion of the Land subject to any easement, in the event that the owners of the easement shall, for the purpose of exercising the right of use or maintenance of the easement, compel removal or relocation of the encroaching Improvement; or
   d. Enforced removal of any Improvement located on the Land that encroaches onto adjoining land.

4. Sections 3.c and 3.d. of this endorsement do not insure against loss or damage (and the Company does not pay costs, attorneys' fees, or expenses) resulting from the following Exceptions, if any, listed 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]

[FNTG BRAND]

By: _________________________________
Authorized Signatory

ALTA Endorsement Form 28.2-06
(Encroachments-Boundaries and Easements-Described Improvements) (4/2/13)
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SWAP ENDORSEMENT
(INTEREST RATE EXCHANGE AGREEMENT SECURED BY INSURED MORTGAGE)
ALTA ENDORSEMENT – FORMS 29-06, 29.1-06, 29.2-06 AND 29.3-06

PURPOSE

Lenders occasionally request that the Loan Policy insure amounts which are described in an Interest Rate Exchange Agreement or Swap Agreement, the terms of which are contained in or referenced in the Insured Mortgage. Such agreements obligate the mortgagor for damages the lender may suffer under swap transactions it enters into on the borrower’s behalf in order to achieve a favorable interest rate. If the borrower defaults on its loan, the lender becomes obligated itself under the swap loan for amounts known as breakage fees. This endorsement is designed to provide additional coverage for these amounts. These amounts are contingent and would accrue as an obligation of the borrower post-policy. Without an endorsement, it is questionable whether the definition of Indebtedness at Condition number 1(d) would cover such obligations, whether they were characterized as additional principal or additional interest on the loan.

SECTION OF POLICY AMENDED BY ENDORSEMENT

Since the loan documents provide that the obligations described in the agreements may accrue in the future, this endorsement provides coverage for breakage fees paid by the insured lender post policy despite Exclusions from Coverage 3(d), which excludes “defects, liens, encumbrances, adverse claims, or other matters attaching or created subsequent to Date of Policy.” That Exclusion expressly does not modify or limit the coverage provided under Covered Risk 11, 13, or 14, but none of those provisions would provide coverage for breakage fees. The definitions of Indebtedness at Condition 1(d) (ii) (principal disbursed subsequent to Date of Policy) and (iv) (interest on the loan) do not apply to those mortgages which provide that what is secured are amounts advanced to pay sums due under the agreements, which are neither principal disbursed nor additional interest. In states with a mortgage tax, these agreements are often structured so that the sums due are treated as additional interest, and in that case breakage fees might be treated as covered under Condition 1(d)(iv) for purposes of determining the Amount of Insurance; however, inclusion for such purpose would not result in coverage of the validity, enforceability and priority of advances made to fund breakage fees.
BASIS FOR PROVIDING COVERAGE

1. **State Law – Obligatory advances; Incorporation by Reference.**

Many states have statutory or case law which provides that if the costs expended by the lender on behalf of the borrower under the swap agreement are obligatory, they may be afforded the same priority as if they had been expended at the date of the mortgage. For states in which this is the law, the loan documents must be reviewed to verify that the payment of breakage fees is obligatory. For other states, the law must be reviewed by the Company's underwriting advisor to determine if the obligations of the lender will be afforded the same priority as if they had been expended at the date of the mortgage. Note that the endorsement specifically excludes coverage with respect to laws relating to bankruptcy, usury, unconscionability or unreasonableness. Further, the question of whether a swap agreement referred to in a note, which itself is referred to in the Insured Mortgage, is effectively incorporated by reference into the Insured Mortgage so as to give notice to third parties, is a question of state law which must be referred to the Company's underwriting advisor.

2. **The mortgage must state the maximum amount secured by the agreement, in addition to the principal loan amount secured.**

The Insured Mortgage must state the additional amounts to be secured by reason of lender obligations under the swap or interest exchange agreements. Premium must be paid on these amounts.

3. **The swap or interest exchange agreement must be in place.**

State priority law will usually require either that the agreement be in place at the time of execution of the Insured Mortgage. The question of the sufficiency of a swap agreement not yet in place at Date of Policy should be referred to the Company's underwriting advisor.

4. **In states with a mortgage tax, swap enhanced loans may structure the swap obligations as additional interest.** In such cases, provisions for treatment of the swap obligations as additional interest must be contained in the note and not merely in the interest rate exchange agreement.
For a number of reasons, including the imposition of taxes, the swap obligations to be secured by the Insured Mortgage may be defined as additional interest. If this is the situation, the provisions for this treatment must be contained in the note so as to give notice to intervening parties that the mortgage secures such additional interest (see State Law - Incorporation by Reference above). New York is one such state which has a specific form which must be used. Since normal additional interest is included in the Amount of Indebtedness, the breakage fees thus characterized would be included. Consideration should be given to the position that these special types of “additional interest” were not contemplated as normal components of liability when assessing the premium to be charged for this endorsement. Therefore, the endorsement merits a charge notwithstanding that at the time of issuance of the policy the amount of exposure for loss under the endorsement may be minimal or non-existent.

**OBLIGATORY ADVANCE – FORMS 29-06 and 29.2-06**

These forms treat the swap obligation amounts as additional principal. Form 29-06 requires the Insured to include the amount of any breakage fees in the face amount of the Insured Mortgage to provide for coverage as to those amounts. Form 29.2-06 allows the additional amount of liability to be separately shown in the endorsement. Additional premium would be collected on the amounts shown in the endorsement.

**ADDITIONAL INTEREST - FORM 29.1-06 and 29.3-06**

Form 29.1-06 treats the swap obligation amounts as additional interest. While Conditions 1 (d) (iv) of the 2006 ALTA Loan Policy includes “interest on the loan” as part of the definition of Indebtedness, the endorsement is still necessary in order to insure the validity, priority and enforceability of post-policy interest. Form 29.3-06 allows the additional amount of liability to be separately shown in the endorsement. Additional premium would be collected on the amounts shown in the endorsement.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

*Return to Table of Contents*
ENDORSEMENT
Attached to Policy No._____

Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 3 of this endorsement, the Exclusions from Coverage in the Policy, the Exceptions from Coverage contained in Schedule B, and the Conditions. As used in this endorsement:

   a. The “Date of Endorsement” is ____________________________; and

   b. "Swap Obligation" means a monetary obligation under the interest rate exchange agreement dated ____________, between ______________ and the Insured existing at Date of Endorsement and secured by the Insured Mortgage. The Swap Obligation is included as a part of the Indebtedness.

2. The Company insures against loss or damage sustained by the Insured by reason of the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for the repayment of the Swap Obligation at Date of Endorsement.

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

   a. Rights or obligations set, created or confirmed after the Date of Endorsement under a master interest rate exchange agreement existing on or after Date of Endorsement;

   b. The stay, rejection or avoidance of the lien of the Insured Mortgage as security for the Swap Obligation, or a court order providing some other remedy, by the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws;

   c. The calculation of the amount, if any, determined by a court of competent jurisdiction as the amount of the Swap Obligation[; or]

   d. [The invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for repayment of the Swap Obligation because all applicable mortgage recording or similar intangible taxes were not paid; or ]

   e. [If Date of Endorsement is after Date of Policy, add any necessary additional exceptions here].

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 to it.

Dated:

By________________________
Authorized Signatory

ALTA Endorsement - Form 29 - 06
(Interest Rate Swap –Direct Obligations) (2/3/10)
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ENDORSEMENT
Attached to Policy No. _____
Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 3 of this endorsement, the Exclusions from Coverage in the Policy, the Exceptions from Coverage contained in Schedule B, and the Conditions. As used in this endorsement:
   a. The “Date of Endorsement” is ____________________________; and
   b. “Swap Obligation” means a monetary obligation under the interest rate exchange agreement dated _____, between _____________ and the Insured existing at Date of Endorsement and secured by the Insured Mortgage.
   c. “Additional Interest” means the additional interest calculated pursuant to the formula provided in the loan documents secured by the Insured Mortgagee at Date of Endorsement.

2. The Company insures against loss or damage sustained by the Insured by reason of the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for the repayment of the Additional Interest at Date of Endorsement.

3. This endorsement does not insure against loss or damage, and the Company will not pay costs, attorneys’ fees, or expenses that arise by reason of:
   a. Rights or obligations set, created or confirmed after the Date of Endorsement under a master interest rate exchange agreement existing on or after Date of Endorsement;
   b. The stay, rejection or avoidance of the lien of the Insured Mortgage as security for the Swap Obligation, or a court order providing some other remedy, by the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws;
   c. The calculation of the amount, if any, determined by a court of competent jurisdiction as the amount of the Additional Interest[; or]
   d. [The invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for repayment of the Swap Obligation because all applicable mortgage recording or similar intangible taxes were not paid; or ]
   e. [If Date of Endorsement is after Date of Policy, add any necessary additional exceptions here].

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 to it.

Dated:

By ____________________________
Authorized Signatory

ALTA Endorsement - Form 29.1 - 06
(Interest Rate Swap – Additional Interest) (2/3/10)
©American Land Title Association
Attached to Policy No._____

Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 3 of this endorsement, the Exclusions from Coverage in the Policy, the Exceptions from Coverage contained in Schedule B, and the Conditions. As used in this endorsement:

   a. The “Date of Endorsement” is __________________________; and

   b. “Swap Obligation” means a monetary obligation under the interest rate exchange agreement dated __________ between __________________ and the Insured existing at Date of Endorsement and secured by the Insured Mortgage. The Swap Obligation is included as a part of the Indebtedness.

   c. “Additional Amount of Insurance” is $_______ that is in addition to the Amount of Insurance stated in Schedule A and is Applicable only to loss or damage under this endorsement.

2. The Company insures against loss or damage sustained by the Insured by reason of the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for the repayment of the Swap Obligation at Date of Endorsement.

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

   a. Rights or obligations set, created or confirmed after the Date of Endorsement under a master interest rate exchange agreement existing on or after Date of Endorsement;

   b. The stay, rejection or avoidance of the lien of the Insured Mortgage as security for the Swap Obligation, or a court order providing some other remedy, by the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws;

   c. The calculation of the amount, if any, determined by a court of competent jurisdiction as the amount of the Swap Obligation[; or]

   d. [The invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for repayment of the Swap Obligation because all applicable mortgage recording or similar intangible taxes were not paid; or]

   e. [If Date of Endorsement is after Date of Policy, add any necessary additional exceptions here].

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 to it.

Dated:

By________________________
Authorized Signatory
ENDORSEMENT
Attached to Policy No. _____
Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 3 of this endorsement, the Exclusions from Coverage in the Policy, the Exceptions from Coverage contained in Schedule B, and the Conditions. As used in this endorsement:
   a. The “Date of Endorsement” is ____________________________; and
   b. “Swap Obligation” means a monetary obligation under the interest rate exchange agreement dated , ____, between _____________ and the Insured existing at Date of Endorsement and secured by the Insured Mortgage.
   c. “Additional Interest” means the additional interest calculated pursuant to the formula provided in the loan documents secured by the Insured Mortgage at Date of Endorsement.
   d. “Additional Amount of Insurance” is $ _____ that is in addition to the Amount of Insurance stated in Schedule A and is applicable only to loss or damage under this endorsement.

2. The Company insures against loss or damage sustained by the Insured by reason of the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for the repayment of the Additional Interest at Date of Endorsement.

3. This endorsement does not insure against loss or damage, and the Company will not pay costs, attorneys’ fees, or expenses that arise by reason of:
   a. Rights or obligations set, created or confirmed after the Date of Endorsement under a master interest rate exchange agreement existing on or after Date of Endorsement;
   b. The stay, rejection or avoidance of the lien of the Insured Mortgage as security for the Swap Obligation, or a court order providing some other remedy, by the operation of federal bankruptcy, state insolvency, or similar creditors’ rights laws;
   c. The calculation of the amount, if any, determined by a court of competent jurisdiction as the amount of the Additional Interest[; or]
   d. [The invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for repayment of the Swap Obligation because all applicable mortgage recording or similar intangible taxes were not paid; or]
   e. [If Date of Endorsement is after Date of Policy, add any necessary additional exceptions here].

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 to it.

Dated:

By__________________________
Authorized Signatory

ALTA Endorsement - Form 29.3 - 06
(Interest Rate Swap – Additional Interest-Defined Amount) (8/01/11)
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ONE TO FOUR FAMILY SHARED APPRECIATION MORTGAGE ENDORSEMENT
COMMERCIAL PARTICIPATION INTEREST
ALTA ENDORSEMENT FORMS 30-06 and 30.1-06

PURPOSE

These endorsements are designed to provide additional coverage to the lender when the loan documents provide that the lender will participate in the appreciation in value of the property or a share of the cash flow (as additional interest). The residential version (30-06) was developed for use with government programs that modified and reduced the outstanding debt of homeowners in the face of the downturn of the housing market. These programs allow the recapture of appreciation up to the amount of forgiveness of previously outstanding debt. The use of this endorsement for any other purpose must be approved by the Company’s underwriting advisor. The commercial version (30.1-06) is for use only with commercial transactions and includes, in addition to the increase in the value of the property (appreciation), a share of the cash flow from the property and any increase in the equity of the borrower in the property, and must be approved by the Company’s underwriting advisor. These endorsements provide coverage in the event of an attack on the validity, priority or enforceability of the Insured Mortgage based upon the provisions regarding shared appreciation and participation.

SECTION OF POLICY AMENDED BY ENDORSEMENT

Since any appreciation or additional interest will occur in the future, these endorsements specifically provide that the coverage is not subject to Section 3(d) of the Exclusions from Coverage which excludes “Defects, liens, encumbrances, adverse claims, or other matters . . . attaching or created subsequent to Date of Policy . . . .”

BASIS FOR PROVIDING COVERAGE

ALTA Form 30-06: One To Four Family Shared Appreciation Mortgage Endorsement

1. State Law: Many states have passed legislation specifically authorizing the lender to share in the appreciation of the property. The state statute must be examined for provisions setting specific limits and formulas, and the loan documents must be reviewed to verify that the loan complies with those limits and formulas. If the statute has no such limits or formulas, consideration should be given to the possibility that (a) the method of calculation used in the
Insured Mortgage, or (b) the extent to which certain additional obligations might continue even after the principal is paid, might be so weighted in the lender’s favor as to “shock the conscience” of the court and perhaps render the shared appreciation provisions of the Insured Mortgage invalid, or which could lead to a claim of “clogging” the equity of redemption in a bankruptcy or foreclosure situation.

2. **Insured Mortgage must include the formula for calculation:** The Insured Mortgage must expressly state that it is a Shared Appreciation Mortgage and include the actual formula or calculation method used to determine the lender’s share. The formula or calculation method cannot simply be incorporated by reference to the provisions of the note or loan agreement.

3. **Loan is not a joint venture:** Consideration must also be given to whether or not the loan is really a loan. Could it be recharacterized as a joint venture arrangement with the borrower? The terms and provisions of the loan documentation must be reviewed for a determination as to the nature and extent of control that the lender will have over the operations of the borrower. If these controls are extensive and there is a risk that the loan will be recharacterized, then this endorsement should not be issued. Any such issues must be discussed with the Company underwriting advisor before this endorsement is offered.

This endorsement is designed for use with an ALTA Loan Policy issued in connection with a residential transaction. See Section 51 (Shared Appreciation Mortgage Endorsement-Commercial), Section 52 (Share of Cash Flow (Additional Interest) Endorsement) and the discussion of the ALTA 30.1-06 below for Commercial coverages.

**NOTE:** THIS ENDORSEMENT MAY ONLY BE USED IN CONNECTION WITH LOANS ON ONE TO FOUR FAMILY RESIDENTIAL PROPERTIES.

**ALTA FORM 30.1-06: Commercial Participation Interest**

1. **State Law:** Some states have passed legislation specifically authorizing the charge of “additional interest” which is how the participation interest is designated. These statutes must be examined for provisions setting specific limits and formulas, and the loan documents must be reviewed to verify that the loan complies with those limits and formulas. If the statute has no such limits or formulas, consideration should be given to the possibility that (a) the method of calculation used in the Insured Mortgage, or (b) the extent to which certain additional obligations might continue even after the principal is paid, might be so weighted in the lender’s favor as to
“shock the conscience” of the court and perhaps render the shared appreciation provisions of the Insured Mortgage invalid or which could lead to a claim of “clogging” the equity of redemption in a bankruptcy or foreclosure situation.

2. **Insured Mortgage must include the formula for calculation:** The Insured Mortgage must *expressly* state that it is a Shared Appreciation Mortgage (if that is what the statutes require) and include the actual formula or calculation method used to determine the lender’s additional interest. The formula or calculation method **cannot** simply be incorporated by reference to the provisions of the note or loan agreement.

3. **Loan is not a joint venture:** Consideration must also be given to whether or not the loan is really a loan. Could it be recharacterized as a joint venture arrangement with the borrower? The terms and provisions of the loan documentation must be reviewed for a determination as to the nature and extent of control that the lender will have over the operations of the borrower. If these controls are extensive and there is a risk that the loan will be recharacterized, then this endorsement should not be issued. Any such issues must be discussed with the Company Underwriting advisor before this endorsement is offered.

4. **Amount of Insurance:** The minimum Policy Amount should be the sum of the principal debt plus a reasonable estimate of the amount of “shared appreciation interest”. Usury, consumer credit protection or truth in lending laws, and costs required to obtain a determination of the amount of additional interest due are specifically mentioned to reinforce the idea that the express insurance does not cover these matters.

This endorsement is designed for use with an ALTA Loan Policy issued in connection with a **commercial** transaction.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting advisor before complying with any request for a modification.
ENDORSEMENT
Attached to Policy No.

Issued by

[FNTG Brand]

The insurance afforded by this endorsement is only effective if the Land is a one to four family residence.

For the purposes of this endorsement, “Shared Appreciation” shall mean increases in the Indebtedness secured by the Insured Mortgage by reason of shared equity or appreciation in the value of the Land.

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 the Indebtedness caused by the provisions for Shared Appreciation; or

(b) Loss of priority of the lien of the Insured Mortgage as security for the Indebtedness caused by the provisions for Shared Appreciation.

Nothing contained in this endorsement shall be construed as insuring against loss or damage sustained or incurred by reason of:

(a) usury;

(b) any consumer credit protection or truth in lending law;

(c) costs, expenses or attorney’s fees required to obtain a determination, by judicial proceedings or otherwise, of the amount of the Shared Appreciation;

(d) failure to comply with applicable laws and regulations regarding Shared Appreciation;

(e) the stay, rejection or avoidance of the lien of the Insured Mortgage as security for the Shared Appreciation, or a court order providing some other remedy, by the operation of federal bankruptcy, state insolvency or similar creditors’ rights laws; or

(f) the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for the Indebtedness because all applicable mortgage recording or similar intangible taxes were not paid.

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.

Dated:

By ______________________________

Authorized Signatory
ENDORSEMENT
Attached to Policy No.

Issued by

[FNTG Brand]

1. This endorsement is subject to the exclusions in Section 4 of this endorsement, the Exclusions from Coverage in the policy, the Exceptions from Coverage contained in Schedule B, and the Conditions.

2. As used in this endorsement,
   a. "Loan Documents" means those documents, as they exist at Date of Policy, creating the Indebtedness.
   b. "Participation Interest" means those elements of interest, established and calculated pursuant to the formula provided in the Loan Documents, that are payable or allocated to the Insured based upon:
      i. the borrower’s equity in the Title;
      ii. the increase in value of the Title; or
      iii. cash flow.

3. The policy insures as of Date of Policy 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 the provisions in the Insured Mortgage or in the Loan Documents which provide for Participation Interest.
   b. Lack of priority of the lien of the Insured Mortgage at Date of Policy as security for (i) the unpaid principal balance of the loan and (ii) the interest on the loan, including the Participation Interest, if any, which lack of priority is caused by the provisions in the Loan Documents for payment or allocation to the Insured of any Participation Interest.

4. The policy does not insure against loss or damage, and the Company will not pay costs, attorneys’ fees, or expenses that arise by reason of:
   a. usury; unconscionability; or any consumer credit protection or truth-in-lending law;
   b. disputes over the amount of Participation Interest;
   c. failure to comply with applicable laws and regulations regarding Participation Interest;
   d. the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as security for the Participation Interest because all applicable mortgage recording or similar intangible taxes were not paid; or
   e. any statutory lien for services provided, labor performed, or materials or equipment furnished arising after 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.

Dated:

By ______________________________
Authorized Signatory

ALTA Endorsement Form 30.1-06
(Commercial Participation Interest) (8/1/12)
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SEVERABLE IMPROVEMENTS
ALTA ENDORSEMENT - FORM 31-06

PURPOSE

This endorsement adds, as a part of the calculation of the Insured’s loss, the diminution in value of the Insured’s interest in any defined Severable Improvement affixed to the Land, as well as the reasonable cost of removal or relocation of these. Severable Improvements are defined as property that by law does not constitute real property. Land is defined in the policy as land and improvements that by law constitute real property.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

This endorsement amends Section 8 of the Conditions of the policy. However, it explicitly states that the calculation of loss under the endorsement shall not be in addition to valuations of the Title otherwise determined pursuant to Section 8 or any other endorsement to the Policy. For instance, ALTA Endorsements 13.0-06 and 13.1-06 already provide coverage for the reasonable costs of relocating personal property.

BASIS FOR PROVIDING COVERAGE

CAUTION: THE COMPANY’S UNDERWRITING ADVISOR SHOULD BE CONSULTED FOR INSURABILITY IN YOUR STATE.

While the endorsement clearly indicates at paragraph 3 that it is not providing insurance with respect to the title to personal property, nonetheless the question of compliance with state mono-line regulations must be considered before agreeing to issue. The Amount of Insurance on Schedule A should be in excess of the amount which would otherwise be applicable pursuant to Section 8 of the Conditions of the policy if the endorsement were not to be issued.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

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ENDORSEMENT

Attached to Policy No._______
Issued by
[FNTG BRAND]

1. As used in this endorsement, "Severable Improvement" means property affixed to the Land on or after Date of Policy that by law does not constitute real property because:
   a. of its character and manner of attachment to the Land; and
   b. it can be severed from the Land without causing material damage to it or to the Land.

2. In the event of a loss by reason of a defect, lien, encumbrance, or other matter covered by this Policy ("Defect"), the calculation of the loss shall include (but not to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other endorsement to the Policy):
   a. the diminution in value of the Insured's interest in any Severable Improvement resulting from the Defect, reduced by the salvage value of the Severable Improvement; and
   b. the reasonable cost actually incurred by the Insured in connection with the removal or relocation of the Severable Improvement resulting from the Defect and the cost of transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the relocation.

3. This endorsement relates solely to the calculation of the Insured’s loss resulting from a claim based on a defect, lien, encumbrance or other matter otherwise insured against by the Policy. This Policy does not insure against loss or damage (and the Company will not pay any costs, attorneys’ fees or expenses) relating to:
   a. the attachment, perfection or priority of any security interest in the Severable Improvement;
   b. the vesting or ownership of title to or rights in any Severable Improvement;
   c. any defect in or lien or encumbrance on the title to any Severable Improvement; or
   d. the determination of whether any specific property is real or personal in nature.

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]
Dated:
[FNTG Brand]
BY: ____________________________
AUTHORIZED SIGNATORY

ALTA Endorsement Form 31-06
(Severable Improvements) (2-3-11)
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CONSTRUCTION LOAN

ALTA ENDORSEMENT – FORMS 32-06 (Construction Loan – Loss of Priority)
32.1-06 (Construction Loan – Loss of Priority-Direct Payment)
32.2-06 (Construction Loan – Loss of Priority- Insured’s Direct Payment)

PURPOSE

These endorsements, together with the 33-06 (Disbursement) replace the ALTA Construction Loan Policy and the Construction Loan Policy Endorsements A through D which have been decertified and are no longer available.

The issuance of any construction lien or mechanic’s lien coverage is extra-hazardous and all Company guidelines and authority limits must be strictly observed. The availability of these endorsements must be authorized by your Company underwriting advisor. Many states use state specific forms for these coverages and in all cases those state forms would be used unless directed to use this form by your Company underwriting advisor. This or similar coverage may not be available in your state.

These endorsements were developed to give limited coverage where priority has been lost. They only give coverage to the extent of work that the lender has paid for, with the ALTA 32-06 and the ALTA 32.1-06 further limited to liens filed by parties that have been identified on a draw request either paid by the Insured or the Company. They do not give coverage over other inchoate liens that can prime the construction mortgage. The 32-06 covers payment as disclosed by a draw request; the 32.1-06 is for use when payments are made directly to the sub-contractor or supplier, the 32.2 covers a lien filed for payment of previously paid amounts. Please see each section below for further guidance.

Each gives coverage over FILED mechanic’s liens if we have not disclosed them in the policy or ALTA 33-06 (Disbursement) Endorsements which change the Date of Coverage as defined therein.

The issuance of these endorsements requires the following exception to be included in Schedule B of the policy in the place of the general mechanic’s lien exception:

Any statutory lien or claim of lien, affecting the Title, that arises from services provided, labor performed, or materials or equipment furnished, except as insured by the attached ALTA 32-06 Endorsement [or 32.1-06 or 32.2-06 whichever is used] as it may be revised by ALTA 33-06 (Disbursement) Endorsements.

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You may modify this exception to use local terminology. The important thing is to raise the exception for all other mechanic’s lien issues not covered by these limited endorsements but carve out the coverage that is afforded by them.

**ALTA ENDORSEMENT – FORM 32-06 (Construction Loan – Loss of Priority)**

This endorsement insures the priority of a construction loan disbursement where the Insured Mortgage does not have priority over Construction or Mechanic’s Liens (hereafter referred to as “mechanic’s lien”) to the extent that the mechanic’s lien arises from a misdisbursement of funds to pay for services, labor or material that “…were designated for payment in the documents supporting a Construction Loan Advance disbursed by or on behalf of the Insured on or before Date of Coverage.” This misdisbursement coverage does not require the names of the parties providing the services, labor or material being paid for and covers lower tier derivative liens such as material suppliers of a paid subcontractor. Note that the misdisbursement risk includes the risk of inadequate descriptions of who is doing the work and how much they were paid. This endorsement is similar in coverage to the old ALTA Endorsement A type mechanic lien coverage, which has been withdrawn (decertified).

**SECTIONS OF POLICY AMENDED BY ENDORSEMENT**

The endorsement deletes Covered Risk 11(a) of the policy.

**BASIS FOR PROVIDING COVERAGE**

Coverage is provided based upon a combination of

- disclosure of any filed or recorded liens on the Land
- evidence of sufficiency of funds to pay for the cost of construction;
- draw by draw documentation indicating who is to be paid or what is to be paid or what services, labor or material is being paid for and how much is to be paid as disclosed in the lender approved draw request and as supplemented by lower tier documentation as is appropriate;
- evidence of payment (usually in the form of lien waivers indicating payment); and
- indemnification to cover misdisbursement or non-payment by any party at any level, since funds may flow from the owner to the contractor to a subcontractor to a sub-subcontractor to a material supplier for the defined work.
The Company has specific departments which specialize in construction disbursing and documentation review. Their use to review construction documentation when issuing this endorsement will often be required by underwriting.

Consider the typical scenario where the lender pays the general contractor (“GC”) $20,000 for electric work. While we should strive for statements and lien waivers showing that $20,000 (at times less the GC’s overhead and profit) went to an electrician and its suppliers or went to the electrician who paid its suppliers, the indemnity covers the risk of the GC not paying all to the electrician or the electrician not paying an undisclosed supplier.

The ALTA 32-06 is often issued in conjunction with an ALTA 33-06, which extends the Date of Coverage as defined therein but should not be used to extend the Date of Policy. The form does not lend itself to delayed draws without further modification. You must consult with your Company Underwriting Advisor for any variations.

This is a generic endorsement that would customarily be used in states where the construction lender could have obtained statutory priority but did not and the company is unwilling to insure the lender without a mechanic lien exception. **REMEMBER: Any use of this endorsement must be approved by your Company underwriting advisor.**

**ALTA ENDORSEMENT – FORM 32.1-06 (Construction Loan – Loss of Priority – Direct Payment)**

This endorsement insures the priority of a construction loan disbursement where the Insured Mortgage does not have priority over any mechanic lien to the extent that the mechanic’s lien arises from a misdisbursement of funds to pay for services, labor or material “…to the extent that direct payment to the Mechanic’s Lien claimant has been made by the Company or by the Insured with the Company’s written approval.” The effective coverage given is as to that portion of a mechanic’s lien claim due to amounts that we acknowledge as having been directly paid to the claimant, either by the Company or under an agreement with a third party to pay directly. This coverage does not cover lower tier derivative liens such as material suppliers of a paid subcontractor. The customary payment practice of many lenders is to pay the general contractor (“GC”) directly, and such payments would not be covered under this endorsement for mechanic’s lien claims filed by parties claiming by, through or under the GC since only the GC received direct payment. Payment directly to the owner for disbursement to the trades gives no mechanic’s lien coverage to the Insured either.
SECTIONS OF POLICY AMENDED BY ENDORSEMENT

The endorsement deletes Covered Risk 11(a) of the policy.

BASIS FOR PROVIDING COVERAGE

Coverage is provided based upon draw by draw documentation indicating who is to be paid what amount directly by the Company or by the Insured, and the collection of evidence, such as lien waivers, to support such payment and coverage.

The ALTA 32.1-06 is often issued in conjunction with an ALTA 33-06, which extends the Date of Coverage as defined therein. The policy and any subsequent endorsements must disclose any filed or recorded liens.

Note that while the coverage to the Insured lender is limited to those funds the Company has either paid directly or has agreed to recognize as paid by the Insured, additional documentation and indemnification to cover misdisbursement or non-payment by any party at any level will likely be required if mechanic’s lien coverage is given either to a third party purchaser, a purchaser’s lender or a permanent lender who pays off the construction loan where those insureds do not have statutory protections and liens may still be filed which affect their interests.

This is a generic endorsement that would customarily be used in states where the construction lender could have obtained statutory priority but did not and the company is unwilling to insure the lender without a mechanic lien exception. REMEMBER: Any use of this endorsement must be approved by your Company underwriting advisor.

ALTA ENDORSEMENT – FORM 32.2-06 (Construction Loan – Loss of Priority – Insured’s Direct Payment)

This endorsement insures the priority of a construction loan disbursement where the Insured Mortgage does not have priority over any mechanic’s lien to the extent that the mechanic’s lien arises from a disbursement of funds to pay for services, labor or material “…to the extent that direct payment to the Mechanic’s Lien claimant has been made by the Insured or on the Insured’s behalf”. The effective coverage given is as to that portion of a mechanic’s lien claim due to amounts that that the Insured actually paid directly to the claimant, or actual payments made on behalf of the Insured by a third party. This coverage does not cover lower tier derivative liens such as material suppliers of a paid subcontractor. The customary payment practice of many
lenders is to pay the general contractor ("GC") directly, and such payments would not be covered under this endorsement for mechanic lien claims filed by parties claiming by, through or under the GC since only the GC received direct payment. Payment directly to the owner for disbursement to the trades gives no mechanics lien coverage to the Insured either.

**SECTIONS OF POLICY AMENDED BY ENDORSEMENT**

The endorsement deletes Covered Risk 11(a) of the policy.

**BASIS FOR PROVIDING COVERAGE**

Coverage is provided based upon the a check of the Public Records for each extension of time under the issuance of an ALTA 33-06, which extends the Date of Coverage as defined therein. Any recorded liens would be raised in the ALTA 33-06.

Note that while the coverage to the Insured lender is limited to those funds the Insured has either paid directly or has had paid directly to the lien claimant on its behalf, additional documentation and indemnification to cover misdisbursement or non-payment by any party at any level will likely be required if mechanic’s lien coverage is given either to a third party purchaser, a purchaser’s lender or a permanent lender who pays off the construction loan where those insureds do not have statutory protections and liens may still be filed which affect their interests.

This is a generic endorsement that would customarily be used in states where the construction lender could have obtained statutory priority but did not and the company is unwilling to insure the lender without a mechanic lien exception. **REMEMBER: Any use of this endorsement must be approved by your Company underwriting advisor.**

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. The ALTA has provided that the title underwriters “are free to use these endorsements, [32-06, 32.1-06 and 32.2-06] subject to any changes or limitations they …consider appropriate.” You must obtain the approval of the Company’s underwriting advisor before complying with any request for a modification.
ENDORSEMENT
Attached to Policy No. __________
Issued by [FNTG BRAND]

1. Covered Risk 11(a) of this policy is deleted.

2. The insurance [for Construction Loan Advances] added by Section 3 of this endorsement is subject to the exclusions in Section 4 of this endorsement and the Exclusions from Coverage in the Policy, the provisions of the Conditions, and the exceptions contained in Schedule B. For the purposes of this endorsement and each subsequent Disbursement Endorsement:
   a. “Date of Coverage” is _____ unless the Company sets a different Date of Coverage by an ALTA 33-06 Disbursement Endorsement issued at the discretion of the Company.
   b. “Construction Loan Advance” shall mean an advance that constitutes Indebtedness made on or before Date of Coverage for the purpose of financing in whole or in part the construction of improvements on the Land.
   c. “Mechanic’s Lien” shall mean any statutory lien or claim of lien, affecting the Title, that arises from services provided, labor performed, or materials or equipment furnished.

3. 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 Construction Loan Advance made on or before the Date of Coverage;
   b. The lack of priority of the lien of the Insured Mortgage as security for each Construction Loan Advance made on or before the Date of Coverage, over any lien or encumbrance on the Title recorded in the Public Records and not shown in Schedule B; and
   c. The lack of priority of the lien of the Insured Mortgage, as security for each Construction Loan Advance made on or before the Date of Coverage over any Mechanic’s Lien, if notice of the Mechanic’s Lien is not filed or recorded in the Public Records, but only to the extent that the charges for the services, labor, materials or equipment for which the Mechanic’s Lien is claimed were designated for payment in the documents supporting a Construction Loan Advance disbursed by or on behalf of the Insured on or before Date of Coverage.

4. This policy does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees or expenses) by reason of any Mechanic’s Lien arising from services, labor, material or equipment:
   a. furnished after Date of Coverage; or
   b. not designated for payment in the documents supporting a Construction Loan Advance disbursed by or on behalf of the Insured on or before Date of Coverage.

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]
[Bracketed material optional]
[FNTG BRAND]
BY: _____________________________________
Authorized Signatory

ALTA Endorsement Form 32-06
(Construction Loan-Loss of Priority) (2-3-11)
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ENDORSEMENT

Attached to Policy No. __________
Issued by [FNTG BRAND]

1. Covered Risk 11(a) of this policy is deleted.

2. The insurance [for Construction Loan Advances] added by Section 3 of this endorsement is subject to the exclusions in Section 4 of this endorsement and the Exclusions from Coverage in the Policy, the provisions of the Conditions, and the exceptions contained in Schedule B. For the purposes of this endorsement and each subsequent Disbursement Endorsement:
   a. “Date of Coverage” is ______________ unless the Company sets a different Date of Coverage by an ALTA 33-06 Disbursement Endorsement issued at the discretion of the Company.
   b. “Construction Loan Advance” shall mean an advance that constitutes Indebtedness made on or before Date of Coverage for the purpose of financing in whole or in part the construction of improvements on the Land.
   c. “Mechanic’s Lien” shall mean any statutory lien or claim of lien, affecting the Title, that arises from services provided, labor performed, or materials or equipment furnished.

3. 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 Construction Loan Advance made on or before the Date of Coverage;
   b. The lack of priority of the lien of the Insured Mortgage as security for each Construction Loan Advance made on or before the Date of Coverage, over any lien or encumbrance on the Title recorded in the Public Records and not shown in Schedule B; and
   c. The lack of priority of the lien of the Insured Mortgage as security for each Construction Loan Advance made on or before the Date of Coverage over any Mechanic’s Lien if notice of the Mechanic’s Lien is not filed or recorded in the Public Records, but only to the extent that direct payment to the Mechanic’s Lien claimant for the charges for the services, labor, materials or equipment for which the Mechanic’s Lien is claimed has been made by the Company or by the Insured with the Company’s written approval.

4. This policy does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees or expenses) by reason of any Mechanic’s Lien arising from services, labor, material or equipment:
   a. furnished after Date of Coverage; or
   b. to the extent that the Mechanic’s Lien claimant was not directly paid by the Company or by the Insured with the Company’s written approval.

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]

[Bracketed material optional]

[FNTG BRAND]

By: ______________________________

ALTA Endorsement Form 32.1-06
(Construction Loan-Loss of Priority-Direct Payment) (rev. 4-2-13)
American Land Title Association

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ENDORSEMENT

Attached to Policy No. __________

Issued by [FNTG BRAND]

1. Covered Risk 11(a) of this policy is deleted.

2. The insurance [for Construction Loan Advances] added by Section 3 of this endorsement is subject to the exclusions in Section 4 of this endorsement and the Exclusions from Coverage in the Policy, the provisions of the Conditions, and the exceptions contained in Schedule B. For the purposes of this endorsement and each subsequent Disbursement Endorsement:
   a. “Date of Coverage” is[_____] unless the Company sets a different Date of Coverage by an ALTA 33-06 Disbursement Endorsement issued at the discretion of the Company.
   b. “Construction Loan Advance” shall mean an advance that constitutes Indebtedness made on or before Date of Coverage for the purpose of financing in whole or in part the construction of improvements on the Land.
   c. “Mechanic’s Lien” shall mean any statutory lien or claim of lien, affecting the Title, that arises from services provided, labor performed, or materials or equipment furnished.

3. 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 Construction Loan Advance made on or before the Date of Coverage;
   b. The lack of priority of the lien of the Insured Mortgage as security for each Construction Loan Advance made on or before the Date of Coverage, over any lien or encumbrance on the Title recorded in the Public Records and not shown in Schedule B; and
   c. The lack of priority of the lien of the Insured Mortgage, as security for each Construction Loan Advance made on or before the Date of Coverage over any Mechanic’s Lien, if notice of the Mechanic’s Lien is not filed or recorded in the Public Records, but only to the extent that a direct payment to the Mechanic’s Lien claimant for the charges for the services, labor, materials or equipment for which the Mechanic’s Lien is claimed has been made by the Insured or on the Insured’s behalf on or before Date of Coverage.

4. This policy does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees or expenses) by reason of any Mechanic’s Lien arising from services, labor, material or equipment:
   a. furnished after Date of Coverage; or
   b. To the extent that the Mechanic’s lien claimant was not directly paid by the Insured or on the Insured’s behalf.

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]

[Bracketed material optional]

[FNTG BRAND]

BY: ____________________________

Authorized Signatory

ALTA Endorsement Form 32.2-06
(Construction Loan-Loss of Priority-Insured’s Direct Payment) (rev. 4/2/13)
© American Land Title Association
CONSTRUCTION LOAN DISBURSEMENT
ALTA ENDORSEMENT - FORM 33-06

PURPOSE
This endorsement is used in conjunction with ALTA Form 32-06 or 32.1-06 when the Date of Coverage to be extended.

The issuance of any construction lien or mechanic lien coverage is extra-hazardous and all Company guidelines and authority limits must be strictly observed. The availability of this endorsement must be authorized by your Company underwriting advisor. Many states use state specific forms for this coverage and in all cases those forms would be used unless directed to use this form by your Company underwriting advisor.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

As used with the Construction Loan forms discussed in Section 32, this endorsement modifies the Date of Coverage originally indicated in those forms.

BASIS FOR PROVIDING COVERAGE

A search of the Public Records according to state underwriting guidelines should be done before each draw and any matters disclosed by such a search should be added to the endorsement in the appropriate place. The Date of Coverage is the date through which we are willing to extend the liability for mechanic liens as discussed in Section 32. It may be the date of the draw request, but in all cases the title search must cover that date. It is especially important to verify that any ML notices or other instruments of that nature have been found and disclosed. If matters are added to Schedule A and B of the policy, care should be taken that all matters are shown appropriately.

REMEMBER: Any use of this endorsement must be approved by your Company underwriting advisor.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. The ALTA has provided that the title underwriters “are free to use [Form 33-06], subject to any changes or limitations they …consider appropriate.” You must obtain the approval of the Company’s underwriting advisor before complying with any request for a modification.
ENDORSEMENT
Attached to Policy No.______
Issued by
[FNTG BRAND]

1. The Date of Coverage is amended to _____________________.
   [a. The current disbursement is: $ ________________________ ]
   [b. The aggregate amount, including the current disbursement, recognized by the Company
      as disbursed by the Insured is: $________________________________] 

2. Schedule A is amended as follows:

3. Schedule B is amended as follows:
   [Part I]
   [Part II]

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 to it.

[Witness Optional]
[Bracketed material optional]

DATED:

[FNTG BRAND]

BY: _____________________________
   AUTHORIZED SIGNATORY

ALTA Endorsement Form 33-06
(Disbursement) (2-3-11)
© American Land Title Association
IDENTIFIED RISK COVERAGE
ALTA ENDORSEMENT – FORM 34-06

PURPOSE

This endorsement should be used whenever we decide to assume a specific risk or “Identified Risk” as defined therein. Sometimes this is referred to as “insuring over”, especially when we have raised that risk in a commitment or policy. It may also be referred to as “affirmative coverage”. There are many ways for the Company to assume the risk of a known title issue, and they vary in clarity and scope. Any such coverage should be granted in conformance with the structure of the commitment or policy, using indemnity language and limiting the scope to expressly identify the quantity of risk undertaken. Our willingness to give additional coverage is a matter to be discussed with your Company underwriting advisor. Once we have decided what specific risks we will cover, the use of this endorsement is strongly recommended. The Company would like to standardize the format for the granting of this type of coverage. The use of the endorsement clarifies the impact of the coverage on the general marketability coverage afforded by the policy. It also clarifies that although we require a final court decree before loss can be determined, it does not relieve us of the duty to defend. If we are unwilling to include defense costs in our coverage, additional language and modifications must be made to the endorsement.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT
The endorsement modifies the referenced exception, or Identified Risk. It modifies the definition of Covered Risk 3 (Unmarketable Title) to provide that, for the Identified Risk, only insurable title is being offered. In other words, loss can only be occasioned upon the refusal to subsequently insure with the limited coverage granted.

BASIS FOR PROVIDING COVERAGE
The underwriting for the granting of any type of additional coverage in reference to a specific exception must be according to Company guidelines and approved at the proper levels. Your Company underwriting advisor must be consulted. Typically, the description of the “Identified Risk” required in Item 1 of the endorsement would be the same as the exception shown in Schedule B – “Mortgage from---to------” or “Violation of Restriction ....”. Occasionally, such as with an encroachment, we should limit the Identified Risk to the enforced removal of that encroachment only, or consider the use of the ALTA Form 28-06 if the encroachment is onto an easement. We don’t intend to assume liability for any other type of loss that could be imposed by an encroachment, such as money damages, other rights imposed in lieu of enforced removal or
zoning issues. In the case of any type of encroachment that is being shown as an exception, we should describe the Identified Risk as the "enforced removal of the improvement" shown as the encroachment described in the exception.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

Return to Table of Contents
ENDORSEMENT
Attached to Policy No.______
Issued by
[FNTG BRAND]

1. As used in this endorsement “Identified Risk” means: [insert description of the title defect, restriction encumbrance or other matter] described in Exception ______ of Schedule B.

2. The Company insures against loss or damage sustained by the Insured by reason of:
   a. A final order or decree enforcing the Identified Risk in favor of an adverse party; or
   b. The release of a prospective purchaser or lessee of the Title or lender on the Title from the obligation to purchase, lease, or lend as a result of the Identified Risk, but only if
      i. there is a contractual condition requiring the delivery of marketable title, and
      ii. neither the Company nor any other title insurance company is willing to insure over the Identified Risk with the same conditions as in this endorsement.

3. The Company will also pay the costs, attorneys’ fees, and expenses incurred in defense of the Title by reason of the Identified Risk insured against by Paragraph 2 of this endorsement, but only to the extent provided in the Conditions.

4. This endorsement does not obligate the Company to establish the Title free of the Identified Risk or to remove the Identified Risk, but if the Company does establish the Title free of the Identified Risk or removes it, Section 9(a) of the Conditions applies.

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 to it.

[Witness Optional]

DATED:
[FNTG BRAND]

BY: _____________________________
AUTHORIZED SIGNATORY

ALTA Endorsement Form 34-06
(Identified Risk Coverage) (8-1-11)
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MINERALS AND OTHER SUBSURFACE SUBSTANCES

ALTA ENDORSEMENT – FORMS 35-06, 35.1-06, 35.2-06, 35.3-06

PURPOSE

These endorsement forms were originally developed to provide coverage to lenders with respect to the enforced removal or alteration of improvements resulting from the extraction or development of minerals or other subsurface substances. This coverage was previously included in the former ALTA 9 series. It is no longer contained within those endorsements other than the revised ALTA 9-06 and the new ALTA 9.7-06. This coverage may be available in some areas for owners policies also.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

No specific sections of the policy are amended by this endorsement; however additional coverages are added.

BASIS FOR PROVIDING COVERAGE

These endorsements differ only in the definitions of “Improvement”.

- Form 35-06 - “Improvement” means a building on the Land at Date of Policy.
- Form 35.1-06 - “Improvement” means a building, structure located on the surface of the Land, and any paved road, walkway, parking area, driveway, or curb, affixed to the Land at Date of Policy and that by law constitutes real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
- Form 35.2-06 - “Improvement” means each improvement on the Land at Date of Policy specifically described and itemized on the exhibit attached to the endorsement.
- Form 35.3-06 - “Improvement” and “Future Improvement” are included in the coverage.
  - “Improvement” means a building, structure located on the surface of the Land, and any paved road, walkway, parking area, driveway, or curb, affixed to the Land at Date of Policy and that by law constitutes real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
  - “Future Improvement” means a building, structure, and any paved road, walkway, parking area, driveway, or curb to be constructed on or affixed to the Land in the locations according to certain Plans identified in the endorsement and that by law will constitute real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
The insurance is afforded only for damage caused by the enforced removal based up the right to use the surface of the land to extract or develop mineral interests. It is not appropriate for other mineral interests. Coverage may be given provided:

- There is no separation of minerals from the surface estate by deed, lease or otherwise; or
- There is a separate mineral estate but it does not include any rights of surface entry; or
- Mineral rights, with rights of surface entry either expressed or implied, have been severed from the surface estate. However, the land and surrounding area is entirely improved with residential development. Under these circumstances, submit the request for coverage to the Company's underwriting advisor who will consider the risk based upon such things as the size of the parcel, use (proposed or current), local zoning, ownership of minerals and the possibility of waiver of mineral rights. The Company's underwriting advisor will review appropriate surveys, or site and elevations plans; or
- The instrument containing the rights includes the obligation of the mineral owner to not damage any existing buildings. Care must be taken to verify the current improvements were in existence at the time of the creation of the mineral interest. Form 35.3-06 would not be available in this instance.

The form allows you to identify any specific grants or reservations of mineral rights that you do NOT wish to give coverage over.

**MODIFICATION**

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.

[Return to Table of Contents](#)
ENDORSEMENT
Attached to Policy No. ____________

Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusion in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only, “Improvement” means a building on the Land at Date of Policy.

3. The Company insures against loss or damage sustained by the Insured by reason of the enforced removal or alteration of any Improvement 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 or any other subsurface substances excepted from the description of the Land or excepted in Schedule B.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:
   a. contamination, explosion, fire, vibration, fracturing, earthquake or subsidence; [or]
   b. negligence by a person or an Entity exercising a right to extract or develop minerals or other subsurface substances; [or]
   c. the exercise of the rights described in (                        )]. *

* Instructional note: identify the interest excepted from the description of the Land in Schedule A or excepted in Schedule B that you intend to exclude from this coverage.

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]

[FNTG BRAND]

By: _______________________________________
Authorized Signatory
ENDORSEMENT
Attached to Policy No. __________

Issued by

[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusion in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only, "Improvement" means a building, structure located on the surface of the Land, and any paved road, walkway, parking area, driveway, or curb, affixed to the Land at Date of Policy and that by law constitutes real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.

3. The Company insures against loss or damage sustained by the Insured by reason of the enforced removal or alteration of any Improvement, 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 or any other subsurface substances excepted from the description of the Land or excepted in Schedule B.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from:
   a. contamination, explosion, fire, vibration, fracturing, earthquake or subsidence; [or]
   b. negligence by a person or an Entity exercising a right to extract or develop minerals or other subsurface substances; [or]
   c. the exercise of the rights described in (                        )]. *

   * Instructional note: identify the interest excepted from the description of the Land in Schedule A or excepted in Schedule B that you intend to exclude from this coverage.

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]

[FNTG BRAND]

By: _______________________________________
Authorized Signatory
ENDORSEMENT

Attached to Policy No. __________

Issued by

[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusion in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only, “Improvement” means each improvement on the Land at Date of Policy itemized on the exhibit attached to this endorsement.

3. The Company insures against loss or damage sustained by the Insured by reason of the enforced removal or alteration of any Improvement 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 or any other subsurface substances excepted from the description of the Land or excepted in Schedule B.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys' fees, or expenses) resulting from:
   a. contamination, explosion, fire, vibration, fracturing, earthquake or subsidence; [or]
   b. negligence by a person or an Entity exercising a right to extract or develop minerals or other subsurface substances; or
   c. the exercise of the rights described in (_________). *

   * Instructional note: identify the interest excepted from the description of the Land in Schedule A or excepted in Schedule B that you intend to exclude from this coverage.

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]

[FNTG BRAND]

By: ______________________________________

Authorized Signatory

ALTA Endorsement Form 35.2-06
(Minerals and other Subsurface Substances-Described Improvements) (4/2/12)
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ENDORSEMENT

Attached to Policy No. __________

Issued by

[FNTG BRAND]

3. The insurance provided by this endorsement is subject to the exclusion in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

4. For purposes of this endorsement only:
   a. “Improvement” means a building, structure located on the surface of the Land, and any paved road, walkway, parking area, driveway, or curb, affixed to the Land at Date of Policy and that by law constitutes real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
   b. “Future Improvement” means a building, structure, and any paved road, walkway, parking area, driveway, or curb to be constructed on or affixed to the Land in the locations according to the Plans and that by law will constitute real property, but excluding any crops, landscaping, lawn, shrubbery, or trees.
   c. “Plans” means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) dated ____, last revised ________, designated as (insert name of project or project number) consisting of ___ sheets.

3. The Company insures against loss or damage sustained by the Insured by reason of the enforced removal or alteration of an Improvement or a Future Improvement, 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 or any other subsurface substances excepted from the description of the Land or excepted in Schedule B.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:
   a. contamination, explosion, fire, vibration, fracturing, earthquake or subsidence; [or]
   b. negligence by a person or an Entity exercising a right to extract or develop minerals or other subsurface substances[; or]
   c. the exercise of the rights described in (                        )]. *

   * Instructional note: identify the interest excepted from the description of the Land in Schedule A or excepted in Schedule B that you intend to exclude from this coverage.

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]

[FNTG BRAND]

By: ______________________________

Authorized Signatory

ALTA Endorsement Form 35.3-06
(Minerals and other Subsurface Substances-Land Under Development) (4/2/12)
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ENERGY PROJECT Series

ALTA ENDORSEMENT – FORMS
36.06, 36.1-06, 36.2-06, 36.3-06, 36.4-06, 36.5-06, 36.6-06

PURPOSE

The ALTA 36 series of endorsement forms were developed to provide coverages to energy project owners and lenders which use a leasehold or easement rights structure. Examples of such projects would include solar or wind farms.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

Forms 36.06 (Energy Project-Leasehold/Easement-Owners)
Form 36.1-06 (Energy Project-Leasehold/Easement-Loan)
These endorsement forms provide coverage to an owner or a lender on an energy project which uses a leasehold and easement rights structure. They are similar to the ALTA 13-06 (Leasehold Owner’s) and 13.1-06 (Leasehold-Loan) endorsements. In addition, these endorsement forms:

- Add specific energy project definitions
- Add coverage for insured easement interests that are a common component of energy projects
- Expand the “Valuation of Title” to clarify that loss on a single parcel shall include resulting loss to the integrated project as a whole
- Add coverage for “Severable Improvements” which is separately available with the previously filed ALTA 31-06 (Severable Improvements) form
- Modify the “Additional items of loss” section to include items appropriate to the energy project transaction
- Add a limitation that the coverage does not include loss resulting from environmental damage or contamination, to conform to policy provisions.

Form 36.2-06 (Energy Project-Leasehold-Owner's)
Form 36.3-06 (Energy Project-Leasehold-Loan)
These endorsement forms provide coverage to an owner or a lender on an energy project which uses only a leasehold structure. They are similar to the ALTA 13-06 (Leasehold Owner's) and 13.1-06 (Leasehold-Loan) endorsements. In addition, these endorsement forms:

- Add specific energy project definitions
• Expand the “Valuation of title” to clarify that loss on a single parcel shall include resulting loss to the integrated project as a whole
• Add coverage for “Severable Improvements” which is separately available with the previously filed ALTA 31-06 (Severable Improvements)
• Modify the “Additional items of loss” section to include items appropriate to the energy project transaction
• Add a limitation that the coverage does not include loss resulting from environmental damage or contamination, to conform to policy provisions.

Form 36.4-06 (Energy Project-Covenants, Conditions and Restrictions-Land Under Development-Owners)
Form 36.5-06(Energy Project-Covenants, Conditions and Restrictions-Land Under Development-Loan)
These endorsement forms provide coverage to an owner or a lender on an energy project which is under development, with respect to covenants, conditions and restrictions. These forms are similar to the ALTA 9.8-06 (Covenants, Conditions and Restrictions – Land Under Development-Owners) and the ALTA 9.7-06 (Covenants, Conditions and Restrictions – Land Under Development-Loan) endorsement forms. In addition, these endorsement forms:
• Add specific energy project definitions
• Add coverage for violation of an enforceable Covenant unless shown in Schedule B
• Add coverage for enforced removal as a result of a building setback encroachment not shown as an exception on Schedule B
• Add coverage for loss occasioned by a recorded notice of a violation of a Covenant relating to environmental protection if not shown as an exception on Schedule B
• Include a limitation that the coverage does not include loss resulting from Covenants contained in an easement or lease, any obligation to perform maintenance, or any covenant pertaining to environmental damage or contamination.

Endorsement Form 36.6-06 (Energy Project-Encroachments): This endorsement form provides coverage to an owner or a lender on an energy project, such as a solar or wind farm, with respect to boundary line and easement encroachments. This form is similar to the ALTA 28.1-06 (Encroachments-Boundaries and Easements) endorsement form. This endorsement form:

• Adds specific energy project definitions
• Provides coverage for the loss occasioned by the existence of an encroachment by improvements onto a neighboring property or onto an easement area within the insured Land, other than as disclosed in Schedule B exceptions
• Provides coverage for the loss occasioned by the existence of an encroachment by a neighboring improvement onto the insured Land, other than as disclosed in Schedule B exceptions
• Provides coverage for the enforced removal of or damage to insured Improvements based upon an encroachment into the easement area or onto neighboring property.

This form also allows the exclusion of a listed encroachment from the enforced removal and damage coverage.

**BASIS FOR PROVIDING COVERAGE**

Endorsements 36.06, 36.1-06, 36.2-06 and 36.3-06 [Leasehold/ Easement and Leasehold] are to be issued when the customer is seeking the additional coverages provided therein and the Land consists of leasehold interests only, or leasehold and easement interests. The searching and examining procedures for insuring leaseholds as discussed under Section 13 of this manual remain the same, as does the modification of Schedule A. In Forms 36.2-06 and 36.3-06, the estate or interest in the Land is not a Fee, but rather the Leasehold Estate created by and between the parties, with a reference to the underlying lease information. That is correct for Forms 36-06 and 36.1-06 also, which additionally have the easement interests as part of the Land. For all of these forms, the entire lease must be examined, and many states require any short form lease or memorandum of the lease (if the full lease is not recorded) to contain the signatures of both parties to give effective constructive notice on the record of the tenants’ rights and interests. Additionally all underwriting guidelines for the search, examination and insurance of easement interests must be followed for Forms 36-06 and 36.1-06.

Consult your Company underwriting advisor for instructions on how to correctly modify the fee policies for use with these endorsements.
Form 36.4-06 [CCR-Land under development-Owners]

An accurate current survey of the Land and the Plans as defined therein is required for coverage. The survey may be incorporated into the Plans, if appropriate.

Coverage 3.a. may be given provided:
- There are no covenants, conditions or restrictions, or
- it has been determined that either there are no violations that are enforceable, or
- all enforceable violations that have been disclosed by inspection, survey, or other means are identified and excepted by description of such matter in Schedule B.

Coverage 3.b. may be given provided:
- There are no building setback lines shown on a recorded or filed plat of subdivision, or
- It has been determined that either there are no violations that are enforceable, or
- All enforceable violations that have been disclosed by inspection, survey or other means are identified and excepted in Schedule B.

Coverage 3.c. may be given provided:
- Either there are no notices of violations of covenants, conditions and restrictions relating to environmental protection recorded or filed in the public records, or
- the notices of violations are identified and excepted in Schedule B.

Form 36.5-06 [CCR-Land Under Development-Loan]

An accurate current survey of the Land and the Plans as defined therein is required for coverage. The survey may be incorporated into the Plans, if appropriate.

Coverage 3.a. may be given if any of the following situations apply:
- There are no covenants, conditions or restrictions.
- The covenants, conditions or restrictions are not enforceable under state or federal law.
- The restrictions contain a clause protecting the lien of a mortgage made in good faith and for value against a violation.
- Rights to enforce the restrictions have been waived or are subordinated to the Insured Mortgage.

Coverage 3.b. may be given provided:
- There are no covenants, conditions or restrictions, or

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• it has been determined that either there are no violations that are enforceable, or
• all enforceable violations that have been disclosed by inspection, survey or other means are identified and excepted in Schedule B.

Coverage 3.c. may be given provided:
• There are no building setback lines shown on a recorded or filed plat of subdivision, or
• it has been determined that either there are no violations that are enforceable, or
• all enforceable violations that have been disclosed by inspection, survey or other means are identified and excepted in Schedule B.

Coverage 3 (d) may be given provided:
• Either there are no notices of violation of covenants, conditions and restrictions relating to environmental protection recorded or filed in the public records, or
• the notices of violations are identified and excepted in Schedule B.

Endorsement 36.6-06[Encroachments]:

An accurate current survey of the Land and the Plans as defined therein is required for coverage.

Coverage 3.a. may be given provided:

For encroachments onto adjoining land
• Any encroachments disclosed by inspection, survey or other means, are also expressly excepted by description of such matter in Schedule B.

For encroachments onto easements located on the Land, either
• there are no easements excepted in Schedule B; or
• encroachments onto easements, disclosed by inspection, survey or other means, are also expressly excepted by description of such matter in Schedule B.

Coverage 3.b. may be provided if any of the following situations apply:
• for encroachments on the Land by a neighboring improvement- any such encroachments disclosed by inspection, survey or other means, are expressly excepted by description of such matter in Schedule B.

Coverage 3.c. may be given if any of the following situations apply:

• There are no easements excepted in Schedule B.
• There are no encroachments onto easements excepted in Schedule B.
• Encroachments shown are minor; would not interfere with the use or maintenance of the easement and your Company underwriting advisor is satisfied that the Electricity Facility or Severable Improvement could not be forcibly removed under state law.

Coverage 3.d. may be given if any of the following situations apply:

• There are no easements excepted in Schedule B.
• There are no encroachments onto easements excepted in Schedule B.
• The encroachment is minor; would not interfere with the maintenance of the easement and your Company underwriting advisor is satisfied that a state court would not require its removal.

The form allows you to list the encroachments for which you do not wish to give coverage.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.
ENDORSEMENT
Attached to Policy No. __________
Issued by
[FNTG BRAND]

5. The insurance provided by this endorsement is subject to the exclusions in Section 6 of this endorsement; and the
Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
   a. “Constituent Parcel” means one of the parcels of Land described in Schedule A that together constitute one
      integrated project.
   b. “Easement” means each easement described in Schedule A.
   c. “Easement Interest” means the right of use granted in the Easement for the Easement Term.
   d. “Easement Term” means the duration of the Easement Interest, as set forth in the Easement, including any
      renewal or extended term if a valid option to renew or extend is contained in the Easement.
   e. “Electricity Facility” means an electricity generating facility which may include one or more of the following: a
      substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator,
      turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire,
      control system, communications or radio relay system, safety protection facility, road, and other building,
      structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation,
      conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling,
      sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on
      the Land in the locations according to the Plans, that by law constitutes real property.
   f. “Evicted” or “Eviction” means (a) the lawful deprivation, in whole or in part, of the right of possession or use
      insured by this policy, contrary to the terms of any Lease or Easement or (b) the lawful prevention of the use
      of the Land or any Electricity Facility or Severable Improvement for the purposes permitted by the Lease or
      the Easement, as applicable, in either case as a result of a matter covered by this policy.
   g. “Lease” means each lease described in Schedule A.
   h. “Leasehold Estate” means the right of possession granted in the Lease for the Lease Term.
   i. “Lease Term” means the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or
      extended term if a valid option to renew or extend is contained in the Lease.
   j. “Plans” means the survey, site and elevation plans or other depictions or drawings prepared by
      (insert name of architect or engineer) dated ____, last revised ____, designated as (insert name of
      project or project number) consisting of ___sheets.
   k. “Remaining Term” means the portion of the Easement Term or the Lease Term remaining after the Insured
      has been Evicted.
   l. “Severable Improvement” means property affixed to the Land at Date of Policy or to be affixed in the locations
      according to the Plans, that would constitute an Electricity Facility but for its characterization as personal
      property, and that by law does not constitute real property because (a) of its character and manner of
      attachment to the Land and (b) the property can be severed from the Land without causing material damage
to
      the property or to the Land.

3. Valuation of Title as an Integrated Project:
   a. If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an
      Eviction, then, as to that portion of the Land from which the Insured is Evicted, that value shall consist of (i)
      the value of (A) the Leasehold Estate or the Easement Interest for the Remaining Term, as applicable, (B) any
      Electricity Facility existing on the date of the Eviction; and, if applicable, (ii) any reduction in value of another
      insured Lease or Easement as computed in Section 3(b) below.
   b. A computation of loss or damage resulting from an Eviction affecting any Constituent Parcel shall include loss
      or damage to the integrated project caused by the covered matter affecting the Constituent Parcel from which
      the Insured is Evicted.
   c. The Insured Claimant shall have the right to have the Leasehold Estate, the Easement Interest, and any
      Electricity Facility affected by a defect insured against by this policy valued either as a whole or separately. In
      either event, this determination of value shall take into account any rent or use payments no longer required to
      be paid for the Remaining Term.
d. The provisions of this Section 3 shall not diminish the Insured’s rights under any other endorsement to the policy; however, the calculation of loss or damage pursuant to this endorsement shall not allow duplication of recovery for loss or damage calculated pursuant to Section 8 of the Conditions or any other endorsement to the policy.

4. Valuation of Severable Improvements:
   a. In the event of an Eviction, the calculation of the loss shall include (but not to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other provision of this or any other endorsement) the diminution in value of the Insured’s interest in any Severable Improvement resulting from the Eviction, reduced by the salvage value of the Severable Improvement.
   b. The policy does not insure against loss or damage (and the Company will not pay any costs, attorneys’ fees or expenses) relating to:
      i. the attachment, perfection or priority of any security interest in any Severable Improvement;
      ii. the vesting or ownership of title to or rights in any Severable Improvement;
      iii. any defect in or lien or encumbrance on the title to any Severable Improvement; or
      iv. the determination of whether any specific property is real or personal in nature.

5. Additional items of loss covered by this endorsement:
   If the Insured is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted, shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 3 of this endorsement, the valuation of Severable Improvements pursuant to Section 4 of this endorsement, or Section 8(a)(ii) of the Conditions.
   a. The reasonable cost of: (i) disassembling, removing, relocating and reassembling any Severable Improvement that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, to the extent necessary to restore and make functional the integrated project; (ii) transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the restoration or relocation; and (iii) restoring the Land to the extent damaged as a result of the disassembly, removal and relocation of the Severable Improvement and required of the Insured solely because of the Eviction.
   b. Rent, easement payments or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate or the Easement Interest, as applicable, may be obligated to pay to any person having paramount title to that of the lessor in the Lease or the grantor in the Easement, as applicable.
   c. The amount of rent, easement payments or damages that, by the terms of the Lease or the Easement, as applicable, the Insured must continue to pay to the lessor or grantor after Eviction with respect to the portion of the Leasehold Estate or Easement Interest, as applicable, from which the Insured has been Evicted.
   d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease, sublease or easement specifically permitted by the Lease or Easement, as applicable, and made by the Insured as lessor or grantor of all or part of the Leasehold Estate or Easement Interest, as applicable.
   e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees or easement or subeasement grantees on account of the breach of any lease or sublease or easement or subeasement specifically permitted by the Lease or the Easement, as applicable, and made by the Insured as lessor or grantor of all or part of the Leasehold Estate or Easement Interest, as applicable.
   f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate or a replacement easement reasonably equivalent to the Easement Interest, as applicable.
   g. If any Electricity Facility is not substantially completed at the time of Eviction, the actual cost incurred by the Insured up to the time of Eviction, less the salvage value, for the Electricity Facility located on that portion of the Land from which the Insured is Evicted. Those costs include costs incurred to construct and fabricate the Electricity Facility, obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping, and cancellation fees related to the foregoing.

6. This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from environmental damage or contamination.
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]

[FNTG BRAND]

By: _______________________________________

Authorized Signatory

ALTA Endorsement Form 36-06
(Energy Project – Leasehold/Easement-Owners) (4/2/12)
©American Land Title Association
ENDORSEMENT
Attached to Policy No. __________

Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 6 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
   a. “Constituent Parcel” means one of the parcels of Land described in Schedule A that together constitute one integrated project.
   b. “Easement” means each easement described in Schedule A.
   c. “Easement Interest” means the right of use granted in the Easement for the Easement Term.
   d. “Easement Term” means the duration of the Easement Interest, as set forth in the Easement, including any renewal or extended term if a valid option to renew or extend is contained in the Easement.
   e. “Electricity Facility” means an electricity generating facility which may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.
   f. “Evicted” or “Eviction” means (a) the lawful deprivation, in whole or in part, of the right of possession or use insured by this policy, contrary to the terms of any Lease or Easement or (b) the lawful prevention of the use of the Land or any Electricity Facility or Severable Improvement for the purposes permitted by the Lease or the Easement, as applicable, in either case as a result of a matter covered by this policy.
   g. “Lease” means each lease described in Schedule A.
   h. “Leasehold Estate” means the right of possession granted in the Lease for the Lease Term.
   i. “Lease Term” means the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
   j. “Plans” means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer), dated ____, last revised ________, designated as (insert name of project or project number) consisting of ___ sheets.
   k. “Remaining Term” means the portion of the Easement Term or the Lease Term remaining after the Insured has been Evicted.
   l. “Severable Improvement” means property affixed to the Land at Date of Policy or to be affixed in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.
   m. “Tenant” means the tenant under the Lease or a grantee under the Easement, as applicable, and, after acquisition of all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy, the Insured Claimant.

3. Valuation of Title as an Integrated Project:
   a. If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction, then, as to that portion of the Land from which the Tenant is Evicted, that value shall consist of (i) the value of (A) the Leasehold Estate or the Easement Interest for the Remaining Term, as applicable, (B) any Electricity Facility existing on the date of the Eviction, and, if applicable, (ii) any reduction in value of another insured Lease or Easement as computed in Section 3(b) below.
   b. A computation of loss or damage resulting from an Eviction affecting any Constituent Parcel shall include loss or damage to the integrated project caused by the covered matter affecting the Constituent Parcel from which the Insured is Evicted.
   c. The Insured Claimant shall have the right to have the Leasehold Estate, the Easement Interest, and any Electricity Facility affected by a defect insured against by the policy valued either as a whole or separately. In
either event, this determination of value shall take into account any rent or use payments no longer required to be paid for the Remaining Term.

d. The provisions of this Section 3 shall not diminish the Insured’s rights under any other endorsement to the policy; however, the calculation of loss or damage pursuant to this endorsement shall not allow duplication of recovery for loss or damage calculated pursuant to Section 8 of the Conditions or any other endorsement to the policy.

4. Valuation of Severable Improvements:

a. In the event of an Eviction, the calculation of the loss shall include (but not to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other provision of this or any other endorsement) the diminution in value of the Insured’s interest in any Severable Improvement resulting from the Eviction, reduced by the salvage value of the Severable Improvement.

b. The policy does not insure against loss or damage (and the Company will not pay any costs, attorneys’ fees or expenses) relating to:
   i. the attachment, perfection or priority of any security interest in any Severable Improvement;
   ii. the vesting or ownership of title to or rights in any Severable Improvement;
   iii. any defect in or lien or encumbrance on the title to any Severable Improvement; or
   iv. the determination of whether any specific property is real or personal in nature.

5. Additional items of loss covered by this endorsement:

If the Insured acquires all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy and thereafter is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 3 of this endorsement, the valuation of Severable Improvements pursuant to Section 4 of this endorsement, or Section 8(a)(iii) of the Conditions:

a. The reasonable cost of: (i) disassembling, removing, relocating and reassembling any Severable Improvement that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, to the extent necessary to restore and make functional the integrated project; (ii) transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the restoration or relocation; and (iii) restoring the Land to the extent damaged as a result of the disassembly, removal and relocation of the Severable Improvement and required of the Insured solely because of the Eviction.

b. Rent, easement payments or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate or the Easement Interest, as applicable, may be obligated to pay to any person having paramount title to that of the lessor in the Lease or the grantor in the Easement, as applicable.

c. The amount of rent, easement payments or damages that, by the terms of the Lease or the Easement, as applicable, the Insured must continue to pay to the lessor or grantor after Eviction with respect to the portion of the Leasehold Estate or Easement Interest, as applicable, from which the Insured has been Evicted.

d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease, sublease or easement specifically permitted by the Lease or Easement, as applicable, and made by the Tenant as lessor or grantor of all or part of the Leasehold Estate or Easement Interest, as applicable.

e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees or easement or subeasement grantees on account of the breach of any lease or sublease or easement or subeasement specifically permitted by the Lease or the Easement, as applicable, and made by the Tenant as lessor grantor of all or part of the Leasehold Estate or Easement Interest, as applicable.

f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate or a replacement easement reasonably equivalent to the Easement Interest, as applicable.

g. If any Electricity Facility is not substantially completed at the time of Eviction, the actual cost incurred by the Insured up to the time of Eviction, less the salvage value, for the Electricity Facility located on that portion of the Land from which the Insured is Evicted. Those costs include costs incurred to construct and fabricate the Electricity Facility, obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping, and cancellation fees related to the foregoing.

6. This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from environmental damage or contamination.
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]

[FNTG BRAND]

By: ______________________
Authorized Signatory

ALTA Endorsement Form 36.1-06
(Energy Project – Leasehold/Easement-Loan) (4/2/12)
©American Land Title Association
ENDORSEMENT

Attached to Policy No. __________

Issued by

[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 6 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
   a. “Constituent Parcel” means one of the parcels of Land described in Schedule A that together constitute one integrated project.
   b. “Electricity Facility” means an electricity generating facility which may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.
   c. “Evicted” or “Eviction” means (a) the lawful deprivation, in whole or in part, of the right of possession insured by this policy, contrary to the terms of any Lease or (b) the lawful prevention of the use of the Land or any Electricity Facility or Severable Improvement for the purposes permitted by the Lease, in either case as a result of a matter covered by this policy.
   d. “Lease” means each lease described in Schedule A.
   e. “Leasehold Estate” means the right of possession granted in the Lease for the Lease Term.
   f. “Lease Term” means the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
   g. “Plans” means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) dated ____, last revised ________, designated as (insert name of project or project number), consisting of ___ sheets.
   h. “Remaining Term” means the portion of the Lease Term remaining after the Insured has been Evicted.
   i. “Severable Improvement” means property affixed to the Land at Date of Policy or to be affixed in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.

3. Valuation of Title as an Integrated Project:
   a. If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction, then, as to that portion of the Land from which the Insured is Evicted, that value shall consist of (i) the value of (A) the Leasehold Estate for the Remaining Term, (B) any Electricity Facility existing on the date of the Eviction, and, if applicable, (ii) any reduction in value of another insured Lease as computed in Section 3(b) below.
   b. A computation of loss or damage resulting from an Eviction affecting any Constituent Parcel shall include loss or damage to the integrated project caused by the covered matter affecting the Constituent Parcel from which the Insured is Evicted.
   c. The Insured Claimant shall have the right to have the Leasehold Estate and any Electricity Facility affected by a defect insured against by this policy valued either as a whole or separately. In either event, this determination of value shall take into account any rent no longer required to be paid for the Remaining Term.
   d. The provisions of this Section 3 shall not diminish the Insured’s rights under any other endorsement to the policy; however, the calculation of loss or damage pursuant to this endorsement shall not allow duplication of recovery for loss or damage calculated pursuant to Section 8 of the Conditions or any other endorsement to the policy.

4. Valuation of Severable Improvements:
   b. In the event of an Eviction, the calculation of the loss shall include (but not to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other provision of this or any other endorsement) the diminution in value of the Insured’s interest in any Severable Improvement resulting from the Eviction, reduced by the salvage value of the Severable Improvement.
b. The policy does not insure against loss or damage (and the Company will not pay any costs, attorneys’ fees or expenses) relating to:
   i. the attachment, perfection or priority of any security interest in any Severable Improvement;
   ii. the vesting or ownership of title to or rights in any Severable Improvement;
   iii. any defect in or lien or encumbrance on the title to any Severable Improvement; or
   iv. the determination of whether any specific property is real or personal in nature.

5. Additional items of loss covered by this endorsement:

   If the Insured is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 3 of this endorsement, the valuation of Severable Improvements pursuant to Section 4 of this endorsement, or Section 8(a)(ii) of the Conditions.

   a. The reasonable cost of: (i) disassembling, removing, relocating and reassembling any Severable Improvement that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, to the extent necessary to restore and make functional the integrated project; (ii) transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the restoration or relocation; and (iii) restoring the Land to the extent damaged as a result of the disassembly, removal and relocation of the Severable Improvement and required of the Insured solely because of the Eviction.

   b. Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.

   c. The amount of rent or damages that, by the terms of the Lease, the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate from which the Insured has been Evicted.

   d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease specifically permitted by the Lease and made by the Insured as lessor of all or part of the Leasehold Estate.

   e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease specifically permitted by the Lease and made by the Insured as lessor of all or part of the Leasehold Estate.

   f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate.

   g. If any Electricity Facility is not substantially completed at the time of Eviction, the actual cost incurred by the Insured up to the time of Eviction, less the salvage value, for the Electricity Facility located on that portion of the Land from which the Insured is Evicted. Those costs include costs incurred to construct and fabricate the Electricity Facility, obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping, and cancellation fees related to the foregoing.

6. This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from environmental damage or contamination.

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.

By: ________________________________

Authorized Signatory

ALTA Endorsement Form 36.2-06
(Energy Project – Leasehold-Owners) (4/2/12)
©American Land Title Association
ENDORSEMENT
Attached to Policy No. __________
Issued by
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 6 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
   a. “Constituent Parcel” means one of the parcels of Land described in Schedule A that together constitute one integrated project.
   b. “Electricity Facility” means an electricity generating facility which may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, appliance, and item associated with or incidental to the generation, transmission, metering, switchgear, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, transmission, metering, switchgear, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, mixing, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use of conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.
   c. “Evicted” or “Eviction” means (a) the lawful deprivation, in whole or in part, of the right of possession insured by this policy, contrary to the terms of any Lease or (b) the lawful prevention of the use of the Land or any Electricity Facility or Severable Improvement for the purposes permitted by the Lease, in either case as a result of a matter covered by this policy.
   d. “Lease” means each lease described in Schedule A.
   e. “Leasehold Estate” means the right of possession granted in the Lease for the Lease Term.
   f. “Lease Term” means the duration of the Leasehold Estate, as set forth in the Lease, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
   g. “Plans” means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer), dated ____, last revised ________, designated as (insert name of project or project number) consisting of ___ sheets.
   h. “Remaining Term” means the portion of the Lease Term remaining after the Insured has been Evicted.
   i. “Severable Improvement” means property affixed to the Land at Date of Policy or to be affixed in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.
   j. “Tenant” means the tenant under the Lease and, after acquisition of all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy, the Insured Claimant.

3. Valuation of Title as an Integrated Project:
   a. If in computing loss or damage it becomes necessary to value the Title, or any portion of it, as the result of an Eviction, then, as to that portion of the Land from which the Tenant is Evicted, that value shall consist of (i) the value of (A) the Leasehold Estate for the Remaining Term, (B) any Electricity Facility existing on the date of the Eviction, and, if applicable, (ii) any reduction in value of another insured Lease as computed in Section 3(b) below.
   b. A computation of loss or damage resulting from an Eviction affecting any Constituent Parcel shall include loss or damage to the integrated project caused by the covered matter affecting the Constituent Parcel from which the Insured is Evicted.
   c. The Insured Claimant shall have the right to have the Leasehold Estate and any Electricity Facility affected by a defect insured against by the policy valued either as a whole or separately. In either event, this determination of value shall take into account any rent no longer required to be paid for the Remaining Term.
   d. The provisions of this Section 3 shall not diminish the Insured’s rights under any other endorsement to the policy; however, the calculation of loss or damage pursuant to this endorsement shall not allow duplication of recovery for loss or damage calculated pursuant to Section 8 of the Conditions or any other endorsement to the policy.

4. Valuation of Severable Improvements:
   c. In the event of an Eviction, the calculation of the loss shall include (but not to the extent that these items of loss are included in the valuation of the Title determined pursuant to Section 8 of the Conditions or any other
provision of this or any other endorsement) the diminution in value of the Insured's interest in any Severable Improvement resulting from the Eviction, reduced by the salvage value of the Severable Improvement.

b. The policy does not insure against loss or damage (and the Company will not pay any costs, attorneys’ fees or expenses) relating to:
   i. the attachment, perfection or priority of any security interest in any Severable Improvement;
   ii. the vesting or ownership of title to or rights in any Severable Improvement;
   iii. any defect in or lien or encumbrance on the title to any Severable Improvement; or
   iv. the determination of whether any specific property is real or personal in nature.

5. Additional items of loss covered by this endorsement:
   If the Insured acquires all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of the policy and thereafter is Evicted, the following items of loss, if applicable to that portion of the Land from which the Insured is Evicted shall be included, without duplication, in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title determined pursuant to Section 3 of this endorsement, the valuation of Severable Improvements pursuant to Section 4 of this endorsement, or Section 8(a)(iii) of the Conditions:

   a. The reasonable cost of: (i) disassembling, removing, relocating and reassembling any Severable Improvement that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, to the extent necessary to restore and make functional the integrated project; (ii) transportation of that Severable Improvement for the initial one hundred miles incurred in connection with the restoration or relocation; and (iii) restoring the Land to the extent damaged as a result of the disassembly, removal and relocation of the Severable Improvement and required of the Insured solely because of the Eviction.
   
   b. Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.
   
   c. The amount of rent or damages that, by the terms of the Lease, the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate from which the Insured has been Evicted.
   
   d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease specifically permitted by the Lease and made by the Tenant as lessor of all or part of the Leasehold Estate.
   
   e. Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease specifically permitted by the Lease and made by the Tenant as lessor of all or part of the Leasehold Estate.
   
   f. The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate.
   
   g. If any Electricity Facility is not substantially completed at the time of Eviction, the actual cost incurred by the Insured up to the time of Eviction, less the salvage value, for the Electricity Facility located on that portion of the Land from which the Insured is Evicted. Those costs include costs incurred to construct and fabricate the Electricity Facility, obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping, and cancellation fees related to the foregoing.

6. This endorsement does not insure against loss, damage or costs of remediation (and the Company will not pay costs, attorneys' fees, or expenses) resulting from environmental damage or contamination.

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]

[FNTG BRAND]

Authorized Signatory

ALTA Endorsement Form 36.3-06
(Energy Project – Leasehold-Loan) (4/2/12)
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ENDORSEMENT

Attached to Policy No. __________

Issued by

[FNTG BRAND]

iii. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

iv. For purposes of this endorsement only:
   a. “Covenant” means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
   b. “Electricity Facility” means an electricity generating facility that may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.
   c. “Plans” means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) dated _____, last revised ________, designated as (insert name of project or project number), consisting of ___ sheets.
   d. “Severable Improvement” means property affixed to the Land at Date of Policy or to be affixed to the Land in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.

v. The Company insures against loss or damage sustained by the Insured by reason of:
   i. A violation of an enforceable Covenant by any Electricity Facility or Severable Improvement, unless an exception in Schedule B of the policy identifies the violation;
   ii. Enforced removal of any Electricity Facility or Severable Improvement as a result of a violation of a building setback line shown on a plat of subdivision recorded or filed in the Public Records, unless an exception in Schedule B of the policy identifies the violation; or
   iii. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection, describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.

4. This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from:
   a. any Covenant contained in an instrument creating a lease or easement;
   b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land; or
   c. except as provided in Section 3.c., any Covenant pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances.

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]

[FNTG BRAND]

By: ______________________________________

Authorized Signatory

ALTA Endorsement Form 36.4-06
(Energy Project –Covenants, Conditions and Restrictions-Land Under Development-Owners) (4/2/12)

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ENDORSEMENT

Attached to Policy No. __________

Issued by

[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

6. For purposes of this endorsement only:
   a. “Covenant” means a covenant, condition, limitation or restriction in a document or instrument in effect at Date of Policy.
   b. “Electricity Facility” means an electricity generating facility that may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.
   c. “Plans” means the survey, site and elevation plans or other depictions or drawings prepared by (insert name of architect or engineer) dated ____, last revised __________, designated as (insert name of project or project number) consisting of ___ sheets.
   d. “Severable Improvement” means property affixed to the Land at Date of Policy or to be affixed to the Land in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.

7. The Company insures against loss or damage sustained by the Insured by reason of:
   a. A violation of a Covenant that:
      i. divests, subordinates, or extinguishes the lien of the Insured Mortgage;
      ii. results in the invalidity, unenforceability, or lack of priority of the lien of the Insured Mortgage; or
      iii. causes a loss of the Insured’s Title acquired in satisfaction or partial satisfaction of the Indebtedness.
b. A violation of an enforceable Covenant by any Electricity Facility or Severable Improvement, unless an exception in Schedule B of the policy identifies the violation;

c. Enforced removal of any Electricity Facility or Severable Improvement, as a result of a violation of a building setback line shown on a plat of subdivision recorded or filed in the Public Records, unless an exception in Schedule B of the policy identifies the violation; or

d. A notice of a violation, recorded in the Public Records at Date of Policy, of an enforceable Covenant relating to environmental protection, describing any part of the Land and referring to that Covenant, but only to the extent of the violation of the Covenant referred to in that notice, unless an exception in Schedule B of the policy identifies the notice of the violation.

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

   a. any Covenant contained in an instrument creating a lease or easement;

   b. any Covenant relating to obligations of any type to perform maintenance, repair, or remediation on the Land; or

   c. except as provided in Section 3.d., any Covenant pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances.

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]

[FNTG BRAND]

By: ______________________________________

Authorized Signatory

ALTA Endorsement Form 36.5-06
(Energy Project – Covenants, Conditions and Restrictions-Land Under Development-Loan) (4/2/12)
©American Land Title Association
ENDORSEMENT
Attached to Policy No. __________
Issued by
BLANK TITLE INSURANCE COMPANY

1. The insurance provided by this endorsement is subject to the exclusions in Section 4 of this endorsement; and the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For purposes of this endorsement only:
   a. “Electricity Facility” means an electricity generating facility that may include one or more of the following: a substation; a transmission, distribution or collector line; an interconnection, inverter, transformer, generator, turbine, array, solar panel, or module; a circuit breaker, footing, tower, pole, cross-arm, guy line, anchor, wire, control system, communications or radio relay system, safety protection facility, road, and other building, structure, fixture, machinery, equipment, appliance and item associated with or incidental to the generation, conversion, storage, switching, metering, step-up, step-down, inversion, transmission, conducting, wheeling, sale or other use or conveyance of electricity, on the Land at Date of Policy or to be built or constructed on the Land in the locations according to the Plans, that by law constitutes real property.
   b. “Plans” means the survey, site and elevation plans or other depictions or drawings prepared by
      (insert name of architect or engineer) dated ____, last revised ________, designated as (insert name of project or project number) consisting of ___ sheets.
   c. “Severable Improvement” means property affixed to the Land at Date of Policy or to be affixed to the Land in the locations according to the Plans, that would constitute an Electricity Facility but for its characterization as personal property, and that by law does not constitute real property because (a) of its character and manner of attachment to the Land and (b) the property can be severed from the Land without causing material damage to the property or to the Land.

3. The Company insures against loss or damage sustained by the Insured by reason of:
   a. An encroachment of any Electricity Facility or Severable Improvement located on the Land onto adjoining land or onto that portion of the Land subject to an easement, unless an exception in Schedule B of the policy identifies the encroachment;
   b. An encroachment of an improvement located on adjoining land onto the Land at Date of Policy, unless an exception in Schedule B of the policy identifies the encroachment;
   c. Enforced removal of any Electricity Facility or Severable Improvement, as a result of an encroachment by the Electricity Facility or Severable Improvement onto any portion of the Land subject to any easement, in the event that the owners of the easement shall, for the purpose of exercising the right of use or maintenance of the easement, compel removal or relocation of the encroaching Electricity Facility or Severable Improvement; [or]
d. Damage to any Electricity Facility or Severable Improvement that is located on or encroaches onto that portion of the Land subject to an 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 [; or]

[e. The coverage of Sections 3.c. and 3.d. shall not apply to the encroachments listed in Exception(s) ______________ of Schedule B].

4 This endorsement does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from contamination, explosion, fire, vibration, fracturing, earthquake or subsidence.

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

ALTA Endorsement Form 36.6-06
(Energy Project –Encroachments) (4/2/12)
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ASSIGNMENT OF RENTS OR LEASES ENDORSEMENT

ALTA ENDORSEMENT FORM 37-06

PURPOSE

Lenders occasionally request that the loan policy insure certain recorded interests that are taken as additional security for the loan primarily secured by the Insured Mortgage. The most common additional security, other than a security interest under the Uniform Commercial Code, is an assignment of rents or leases. This endorsement is issued to provide certain coverages with respect to a separate assignment of rents or leases shown in Schedule B, Part II of the policy. This endorsement provides insurance that the assignment of rents or leases is properly executed, and that the Public Records do not disclose any prior assignments of these same rents or leases.

If you are asked to issue an endorsement to provide the above described coverages with respect to an assignment of rents or leases that is contained within the Insured Mortgage, please see Section 56.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

These endorsements do not amend or modify any specific policy provisions, but add additional coverage to the terms of the policy.

BASIS FOR PROVIDING COVERAGE

The assignment of rents or leases must be properly executed by the owner of the estate or interest covered by the Insured Mortgage, and there must not be any prior assignment of rents or leases of record. If a previously recorded assignment of rents or leases is found, it must be raised as an exception in Schedule B of the policy.

NOTE: PRIOR MORTGAGES OR DEEDS OF TRUST MUST BE EXAMINED TO DETERMINE IF THEY CONTAIN ASSIGNMENTS OF RENTS OR LEASES. SEPARATE SCHEDULE B EXCEPTIONS SHOULD BE MADE FOR SUCH ASSIGNMENTS.

MODIFICATION

In the event that modification of this endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.
ENDORSEMENT

Attached to Policy No. ___________

Issued By

[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the Exclusions from Coverage, the Exclusions from Coverage contained in Schedule B, and the Conditions in the policy.

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

   a. any defect in the execution of the [Insert Title of Assignment of Rents or Leases Document] referred to in paragraph _____ [of Part II] of Schedule B; or

   b. any assignment of the lessor’s interest in any lease or leases or any assignment of rents affecting the Title and recorded in the Public Records at Date of Policy other than as set forth in any instrument referred to 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]
MORTGAGE TAX
ALTA ENDORSEMENT - FORM 38-06

PURPOSE

This endorsement provides coverage to the insured lender if there is a deficiency in the recordation tax paid at the time the Insured Mortgage is recorded that is subsequently paid. The endorsement provides that, if the deficiency is paid, the Company will provide coverage against the invalidity or unenforceability of the Insured Mortgage or the lack of priority of the Insured Mortgage, from the failure to pay at the time of recording any portion of the recording tax. The Company does not provide coverage if the insured lender fails to pay the recordation tax deficiency.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

This endorsement for the insured lender does not expressly amend or modify any provisions of the Policy. It adds additional coverage to the terms of the policy.

BASIS FOR PROVIDING COVERAGE

To issue ALTA Form 38-06, you must confirm that there is no law or regulation in the state where the property lies that would adversely affect the lien of the Insured Mortgage by reason of the failure to correctly pay a recordation, registration, or related tax or charge required to be paid when the Insured Mortgage is recorded in the Public Records. If there is no binding authority in the state wherein the property lies, any request for this endorsement must be submitted to the Company’s underwriting advisor for approval. If there is no law or regulation in the state in which the Land is located that contemplates a “Mortgage Tax” as defined in the endorsement, you may issue the endorsement if not regulatorily prohibited.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.
ENDORSEMENT
Attached to Policy No. ___________
Issued By
[FNTG BRAND]

1. The insurance provided by this endorsement is subject to the exclusions in Sections 4 and 5 of this endorsement, the Exclusions from Coverage, the Exceptions from Coverage contained in Schedule B, and the Conditions in the policy.

2. For the purposes of this endorsement only, "Mortgage Tax" means a recordation, registration or related tax or charge required to be paid when the Insured Mortgage is recorded in the Public Records.

3. Upon payment of any deficiency in the Mortgage Tax, including interest and penalties, by the Insured, 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 the Indebtedness resulting from the failure to pay, at the time of recording, any portion of the Mortgage Tax; or
   b. the lack of priority of the lien of the Insured Mortgage as security for the Indebtedness resulting from the failure to pay, at the time of recording, any portion of the Mortgage Tax.

4. The Company does not insure against loss or damage (and the Company will not pay costs, attorneys’ fees, or expenses) resulting from the failure of the Insured to pay the Mortgage Tax deficiency, together with interest and penalties.

5. The Company is not liable for the payment of any portion of the Mortgage Tax, including interest or penalties

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.

[FNTG BRAND]
BY: _______________________

ALTA Endorsement Form 38-06
(Mortgage Tax) (12/3/12)
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POLICY AUTHENTICATION
ALTA ENDORSEMENT - FORM 39-06

PURPOSE

This endorsement provides coverage to the insured lender if a policy is issued electronically, or does not have a signature which may be required by the form of policy cover used.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

This endorsement for the insured lender modifies the cover and Conditions 14 (c) of the Policy which requires an authentication by an authorized person. This typically would be the signature of a licensed (as necessary) employee or agent.

BASIS FOR PROVIDING COVERAGE

If the policy is issued electronically, it will not contain a “wet” signature, which is normally required by the language contained in the contract of insurance as indicated on the cover of the policy. The policy itself must be issued properly and all agency contract and Company underwriting guidelines must be followed before this endorsement can be issued. It is not the intent of the Company to include fraudulent or forged policies within this coverage.

MODIFICATION

In the event that modification of an endorsement is requested, it is necessary to consider your state regulatory requirements for filing and approval of forms. If the endorsement is modified, the endorsement is not an ALTA form and should not reference ALTA in the title. You must obtain the approval of the Company’s underwriting adviser before complying with any request for a modification.
ENDORSEMENT
Attached to Policy No. _____________
Issued By
[FNTG BRAND]

When the policy is issued by the Company with a policy number and Date of Policy, the Company will not deny liability under the policy or any endorsements issued with the policy solely on the grounds that the policy or endorsements were issued electronically or lack signatures in accordance with the Conditions.

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]

[FNTG BRAND]
BY: ________________________________

ALTA Endorsement Form 39-06
(Policy Authentication) (4/3/13)
©American Land Title
PurPOSE

**THIS ENDORSEMENT IS NO LONGER AVAILABLE IN THIS FORMAT**

In certain parts of the country, this endorsement is used quite frequently with the ALTA loan policies on both residential and commercial transactions. In other parts of the country its use is limited to large commercial transactions. Similar in scope to the ALTA Form 9 series of endorsements, this endorsement is designed to afford the lender protection with respect to violations of private property restrictions which could impair the lien of the Insured Mortgage or the marketability of the Title. It also insures against damage to improvements which could result from encroachments onto easements or adjacent property or because of development of minerals. This endorsement is not suitable for use in policies insuring unimproved land.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

This endorsement expands policy coverage by reducing the risk to the Insured with respect to certain Exclusions or Schedule B Exceptions.

BASIS FOR PROVIDING COVERAGE

*Coverage 1(a) may be given if any of the following situations apply:*

1. There are no covenants, conditions and restrictions.
2. The covenants, conditions or restrictions are not enforceable under state law.
3. The restrictions contain provisions that provide protections against impairment or loss of the mortgage lien where the lender is a good faith lender without knowledge of a violation.
4. Rights to enforce the restrictions have been waived or are subordinate to the Insured Mortgage.

*Coverage 1(b) may be given if any of the following situations apply:*
1. There are no covenants, conditions and restrictions.

2. It has been determined that there are no violations of the covenants, conditions or restrictions.

3. The statutory period for enforcement of restrictions has run or rights of enforcement of any violation have been properly waived.

Coverage 1(c) may be given provided:

Encroachments, if any, disclosed by survey, affidavit, inspection or otherwise are shown on Schedule B.

Coverage 2(a) may be given if any of the following situations apply:

Same as Items 1 through 4, under coverage 1(a)

Coverage 2(b) may be given if any of the following situations apply:

Same as Items 1 through 4, under coverage 1(a)

CAUTION: IF ANY RESTRICTIONS ON SCHEDULE B CONTAIN PROVISION FOR FORFEITURE OR REVERSION OF TITLE ON THE OCCURRENCE OF A SPECIFIED CONDITION, THE AFFIRMATIVE INSURANCE GIVEN UNDER 1(a) and (b) AND 2(a) and (b) CANNOT BE GIVEN. THOSE SECTIONS WILL HAVE TO BE DELETED FROM THE ENDORSEMENT.

Coverage 3(a) may be given if any of the following situations apply:

1. No easements are shown in Schedule B.

2. A survey or other reliable information confirms that existing improvements do not encroach upon any Schedule B easements.

3. There is a minor encroachment of improvements onto a Schedule B easement, but after consulting with the Company’s underwriting advisor, it is determined that the...
encroachment would not interfere with maintenance of the easement and could not result in the forced removal of the improvements under state law.

*Coverage 3(b)* may be given if any of the following situations apply:

1. There is no separation of minerals from the surface estate by either deed or lease.
2. There is a separate mineral estate but it does not include any rights of surface entry.

**CAUTION:** IF MINERAL RIGHTS WITH RIGHTS OF SURFACE ENTRY HAVE BEEN SEVERED FROM THE SURFACE ESTATE, BUT THE LAND AND SURROUNDING AREA IS ENTIRELY IMPROVED WITH RESIDENTIAL DEVELOPMENT, YOU MUST SUBMIT THESE FACTS TO THE COMPANY’S UNDERWRITING ADVISER TO CONSIDER THE RISK BEFORE GIVING ANY COVERAGE UNDER 3(b).

*Coverage 4* may be given if any of the following situations apply:

1. There are no encroachments onto adjoining land shown in Schedule B.
2. The encroachment is not onto vacant land, or is minor and could be removed at minimal cost.
3. The encroachment is minor; is not onto vacant land; is not necessary to the support of the main structure; and the Company’s underwriting advisor, being so advised by you, is satisfied that a state court would not require its removal.

**MODIFICATION**

This form is a uniform form in California. In the event that modification of this endorsement or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company's underwriting advisor before complying with any request for modification.

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ENDORSEMENT

Attached to Policy No._____________

Issued By
[FNTG Brand]

The Company insures 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 cut off, subordinated, or otherwise impaired;
   (b) Present violations on the Land of any enforceable covenants, conditions or restrictions;
   (c) Except as shown in Schedule B, encroachments of buildings, structures or improvements located on the Land onto adjoining lands, or any encroachments onto the Land of buildings, structures or improvements located on adjoining lands.

2. (a) Any future violations on the Land of any covenants, conditions or restrictions occurring prior to acquisition of the Title by the Insured, provided such violations result in impairment or loss of the lien of the Insured Mortgage, or result in impairment or loss of the Title if the Insured shall acquire the Title in satisfaction of the Indebtedness;
   (b) Unmarketability of the Title by reason of any violations on the Land, occurring prior to acquisition of the Title by the Insured, of any covenants, conditions or restrictions.

3. Damage to existing improvements, including lawns, shrubbery or trees
   (a) That are located or encroach upon that portion of the Land subject to any easement shown in Schedule B, which damage results from the exercise of the right to use or maintain such easement for the purposes for which the same was granted or reserved;
   (b) Resulting from the exercise of any right to use the surface of the Land for the extraction or development of the minerals excepted from the description of the Land or shown as a reservation in Schedule B.

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

As used in this endorsement, the words "covenants, conditions or restrictions" do not refer to or include the terms, covenants, conditions or restrictions contained in any lease.

As used in this endorsement, 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 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.

DATED:

BY: _____________________________

AUTHORIZED SIGNATURE

CLTA Form 100-06 (03-09-07)
ALTA – Loan Policy
SHARED APPRECIATION MORTGAGE ENDORSEMENT - COMMERCIAL

PURPOSE

This endorsement is designed to provide additional coverage to the lender when the loan documents provide that the lender will participate in the appreciation in value of the property. This endorsement provides coverage in the event of an attack on the validity, priority or enforceability of the Insured Mortgage based upon the provisions regarding shared appreciation. The coverage also includes the value of the shared appreciation pursuant to the formula contained in the loan documentation.

NOTE: THIS ENDORSEMENT SHOULD NOT BE USED IN CONNECTION WITH LOANS ON ONE TO FOUR FAMILY RESIDENTIAL PROPERTIES. (See Section 30 for a form to be used with residential mortgage programs.)

SECTION OF POLICY AMENDED BY ENDORSEMENT

Since any appreciation will occur in the future, this endorsement specifically provides that the coverage is not subject to Section 3(d) of the Exclusions from Coverage which excludes “Defects, liens, encumbrances, adverse claims or other matters . . . attaching or created subsequent to Date of Policy . . . .”

BASIS FOR PROVIDING COVERAGE

1. **State Law:** Many states have passed legislation specifically authorizing the lender to share in the appreciation of the property. The state statute must be examined for provisions setting specific limits and formulas, and the loan documents must be reviewed to verify that the loan complies with those limits and formulas. If the statute has no such limits or formulas, consideration should be given to the possibility that (a) the method of calculation used in the Insured Mortgage, or (b) the extent to which certain additional obligations might continue even after the principal is paid, might be so weighted in the lender's favor as to “shock the conscience” of the court and perhaps render the shared appreciation provisions of the Insured Mortgage invalid, or which could lead to a claim of “clogging” the equity of redemption in a bankruptcy or foreclosure situation.
2. Insured Mortgage must include the formula for calculation: The Insured Mortgage must expressly state that it is a Shared Appreciation Mortgage and include the actual formula or calculation method used to determine the lender’s share. The formula or calculation method cannot simply be incorporated by reference to the provisions of the note or loan agreement.

3. Loan is not a joint venture: Consideration must also be given to whether or not the loan is really a loan. Could it be recharacterized as a joint venture arrangement with the borrower? The terms and provisions of the loan documentation must be reviewed for a determination as to the nature and extent of control that the lender will have over the operations of the borrower. If these controls are extensive and there is a risk that the loan will be recharacterized, then this endorsement should not be issued. Any such issues must be discussed with the Company Underwriting advisor before this endorsement is offered.

This endorsement is designed for use with an ALTA Loan Policy issued in connection with a commercial transaction.

**FORM A**

When this form is provided, the minimum amount of insurance as stated in the policy shall be the sum of the principal debt plus a reasonable estimate of the amount of “shared appreciation interest”.

**FORM B**

When this form is provided, a reasonable estimation of the amount of “shared appreciation interest” is added in the second paragraph as additional insurance. Usury, consumer credit protection or truth in lending laws, and costs required to obtain a determination of the amount of additional interest due are specifically mentioned to reinforce the idea that the express insurance does not cover these matters.

**MODIFICATION**

These forms are not uniform forms. In the event that modification of one or more of these forms or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company’s underwriting adviser before complying with any request for modification.

[Return to Table of Contents]
Form A – Appreciation amounts included within Amount of Insurance

ENDORSEMENT
Attached to Policy No.____

Issued by
[FNTG BRAND]

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

1. The invalidity or unenforceability of the lien of the Insured Mortgage resulting from the provisions therein which provide for a Shared Appreciation Interest in the increase in value of the Land subsequent to Date of Policy.

2. Loss of priority of the lien of the Insured Mortgage as security for (i) the unpaid principal balance of the loan; (ii) the Stated Interest; and (iii) the Shared Appreciation Interest, which loss of priority is caused by the provisions in the Insured Mortgage for payment or allocation to the Insured Mortgage for payment or allocation to the Insured of any Shared Appreciation Interest.

“Stated Interest” as used in this endorsement, shall mean only the fixed percent per annum interest on the unpaid principal balance of the loan provided in the Insured Mortgage at Date of Policy.

“Shared Appreciation Interest”, as used in this endorsement shall mean only those amounts (calculated pursuant to the formula provided in the Insured Mortgage) payable or allocated to the Insured, out of the amount, if any, by which the Land has appreciated in value as established pursuant to the provisions of the Insured Mortgage 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.

Date:

By ______________________
Authorized Signatory
Form B- Appreciation amounts added by endorsement

ENDORSEMENT
Attached to Policy No.

Issued by
[FNTG Brand]

The Company insures the Insured against loss or damage that the Insured shall sustain by reason of the entry of a final, non-appealable order or judgment finding that the lien of the Insured Mortgage as security for the additional interest based on appreciated value of the Land:

(a) is invalid or unenforceable, or

(b) does not, at the Date of Policy, share the same priority in relation to any other claims or liens against the Land as is afforded the principal of the loan secured by the Insured Mortgage.

In the event of a loss compensable under this endorsement, the coverage afforded hereunder is in addition to and not included in the Amount of Insurance stated in Schedule A of the policy. Such additional insurance shall not exceed the sum of $__________ (amount to be agreed upon prior to issue.)

Nothing contained in this endorsement shall be construed as insuring against loss or damage sustained or incurred by reason of:

(a) usury,

(b) any consumer credit protection or truth in lending law, or

(c) costs, expenses or attorney’s fees required to obtain a determination, by judicial proceedings or otherwise, of the amount of any additional interest due.

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.

Dated:

By ____________________________

Authorized Signatory
SHARE OF CASH FLOW (ADDITIONAL INTEREST) ENDORSEMENT

PURPOSE

This endorsement is designed to provide additional coverage to the lender when the loan documents provide that the lender is entitled to a share of the cash flow or income (net of normal expenses) from the property or business of the borrower as “Additional Interest”. The term “Additional Interest” refers to a charge for the use of money other than the percentage rate that is applied to the principal indebtedness. Like the Shared Appreciation Endorsement, it provides not only for monetary loss protection to the lender, but also for the cost of defense against an attack on the validity, priority or enforceability of the lien of the Insured Mortgage upon the net cash flow. The coverage also includes the value of the share of cash flow pursuant to the formula contained in the loan documentation.

SECTION OF POLICY AMENDED BY ENDORSEMENT

Since the loan documents provide that the additional interest will accrue in the future, the coverage provided by this endorsement is not subject to Section 3(d) of the Exclusions from Coverage which excludes “Defects, liens, encumbrances, adverse claims or other matters ... attaching or created subsequent to Date of Policy....”

BASIS FOR PROVIDING COVERAGE

1. State Law
Some states have passed statutes specifically providing for the charging of “Additional Interest”. These statutes must be examined for specific requirements with regard to limits and authorized formulas. If the statute has no such limits or formulas, consideration should be given to the possibility that (a) the method of calculation used in the Insured Mortgage, or (b) the extent to which certain additional obligations might continue even after the principal is paid, might be so weighted in the lender’s favor as to “shock the conscience” of the court and perhaps render the shared cash flow provisions of the Insured Mortgage invalid, or which could lead to a claim of “clogging” the equity of redemption in a bankruptcy or foreclosure situation.

2. Insured Mortgage Must Include The Formula for Calculation

The Insured Mortgage must state that it secures the payment of the lenders share of cash flow as “Additional Interest” and it must contain the formula for calculation. These requirements cannot
be accomplished simply by incorporation by reference to the provisions of the note or loan agreement.

3. **Loan is Not a Joint Venture**

Consideration must be given to whether or not the loan is really a loan. Could it be recharacterized as a joint venture arrangement with the borrower? The terms and provisions of the loan documentation must be reviewed for a determination as to the nature and extent of control that the lender will have over the operations of the borrower. If these controls are extensive and there is a risk that the loan will be recharacterized, then this endorsement should not be issued.

**Instructions for use**

This endorsement is designed for use with the 2006 ALTA Loan Policy insuring mortgages on **commercial** transactions.

**NOTE:** **THIS ENDORSEMENT SHOULD NOT BE USED IN CONNECTION WITH LOANS ON ONE TO FOUR FAMILY RESIDENTIAL PROPERTIES.**

When this coverage is provided, the minimum **Amount of Insurance** as stated in the policy shall be the sum of the principal debt plus a reasonable estimate of the amount of additional interest which will be due to the Insured. Some forms of this endorsement may be filed which add the insurance incrementally as the additional interest accrues with a capping amount of additional insurance. Such an endorsement would contain language substantially as follows:

> *In the event of loss compensable under this endorsement, the coverage afforded hereunder is in addition to and not included in the Amount of Insurance stated in Schedule A of the policy. Such additional insurance shall not exceed the sum of $_____________ (amount to be agreed upon prior to issue).*

**MODIFICATION**

This form is not a uniform form. In the event that modification of this endorsement or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company's underwriting advisor before complying with any request for modification.

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Share of cash flow (additional interest)

ENDORSEMENT
Attached to Policy No. _______

Issued by
[FNTG BRAND]

The Company insures the Insured against loss or damage that the Insured shall sustain by reason of the entry of a final, non-appealable order or judgment finding that the lien of the Insured Mortgage as security for the additional interest based on a share of cash flow as described in paragraph _____ of the Insured Mortgage:

(a) is invalid or unenforceable, or

(b) does not, at the Date of Policy, share the same priority in relation to other claims or liens against the Land as is afforded the principal of the loan secured by the Insured Mortgage.

Nothing contained in this endorsement shall be construed as insuring against loss or damage sustained or incurred by reason of:

(a) Usury,

(b) Any consumer credit protection or truth in lending law, or

(c) Costs, expenses or attorney’s fees required to obtain a determination, by judicial proceedings or otherwise, of the amount of any additional Interest due.

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.

Dated:

By_____________________________
Authorized Signatory
ENDORSEMENT INSURING THE INTEREST OF INCOMING PARTNER

Form A - for use with 2006 Policy
Form B – for use with Former ALTA 1970 (rev. 84) Policy

PURPOSE

This endorsement is to be used when providing coverage to a person or entity that is acquiring an interest as a general partner in a general partnership. The incoming partner wishes to secure title insurance in its favor to the extent of its investment in the partnership. This endorsement limits liability for loss to the percentage interest being acquired by the incoming partner in the partnership.

SECTION OF POLICY AMENDED BY ENDORSEMENT

This endorsement amends Condition 8(a) of the ALTA Owner’s Policy (2006) to limit the liability of the Company with regard to payment of loss.

CAUTION: PLEASE REFER TO FORM B FOR THE ENDORSEMENT TO BE USED WITH THE FORMER ALTA 1970 (rev. 84) OWNER’S POLICY.

BASIS FOR PROVIDING COVERAGE

Coverage in favor of the new partner may only be given when a full copy of the original partnership agreement and any and all amendments have been reviewed to determine that the partnership was originally formed in compliance with local law, and the agreement provides for the substitution and addition of new partners. Any procedures required by the agreement and local law must be observed. Also, the addition of new partners cannot cause a dissolution of the partnership under local law.

This endorsement does not increase coverage but limits the payment of loss. The issuance of this endorsement is a condition to the issuance of the Policy. The Amount of Insurance is to be the proportionate interest in the partnership being acquired by the incoming partner and the Policy should be written observing the following guidelines:
a. The Amount of Insurance would be the market value of the percentage interest being acquired by the new general partner.

b. The Insured would be shown as “[new partner], owner of a [   ]% interest in the partnership shown as the vestee in this Policy”.

c. The partnership would be shown as the vestee.

d. Schedule B and the legal description would be shown in the normal manner.

This endorsement may not be issued without the approval of the Company’s underwriting advisor.

MODIFICATION

These forms are not uniform forms. In the event that modification of one or more of these forms or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company’s underwriting advisor before complying with any request for modification.

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Form A – For use with the ALTA Owners Policy (2006)

ENDORSEMENT
Attached to Policy No. ______

Issued by
[FNTG BRAND]

Section 8(a) of the Conditions is amended to read as follows:

The extent of liability of the Company for loss or damage under this Policy shall not exceed the least of:

(i) _____% of the actual loss of __________ (of which the Insured Claimant is a partner), or if the interest of the Insured in said partnership is reduced below _____%, such lesser proportion of the actual loss of said partnership; or

(ii) The Amount of Insurance; or

(iii) _____% of 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.

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.

Date:

BY: _____________________________________________
   Authorized Signatory
Form B- For use with Policy Formerly known as ALTA 1970 (rev. 84) Policy Form

ENDORSEMENT
Attached to Policy No. ______

Issued by
[FNTG BRAND]

Section 6(a) of the Conditions and Stipulations is amended to read as follows:

The liability of the Company under this policy shall not exceed the least of:

(i) _____% of the actual loss of __________ (of which the insured claimant is a partner), or if the interest of the insured in said partnership is reduced below _____%, such lesser proportion of the actual loss of said partnership; or

(ii) The amount of insurance stated in Schedule A.

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.

Date:

BY:___________________________________
Authorized Signatory
EXCESS INSURANCE ENDORSEMENT FOR USE IN INSURING EXISTING PARTNERSHIP OR INTEREST OF NEW PARTNER IN EXISTING PARTNERSHIP

PURPOSE

This endorsement is to be used in situations where there is an existing policy in favor of a partnership which was issued by another company or brand. We are being asked to insure either the partnership currently in title at present market value upon acquisition of a new partnership interest by a new partner or the interest of the new partner. In either event the new Insured is willing to let the Company treat the previous insurance as primary coverage making the new coverage “excess insurance”. This endorsement is designed to accomplish this result.

SECTION OF POLICY AMENDED BY ENDORSEMENT

This endorsement modifies the policy to provide that loss is recoverable under the policy only to the extent that it exceeds the Insured’s recovery under a prior policy.

BASIS FOR PROVIDING COVERAGE

This endorsement must be made a part of all owners policies insuring continuing partnerships or new partners in continuing partnerships when the Company is accepting the risk under a new policy as an “excess insurer”. The examiner must be satisfied that the partnership was properly formed originally, that the partnership agreement provides for the substitution and/or addition of new partners and that the documentation intended to accomplish the change complies with the requirements of applicable law. A copy of the primary policy must be obtained and examined, and a determination must be made that there are no claims pending based upon the coverage granted thereunder.

MODIFICATION

This form is not a uniform form. In the event that modification of this endorsement or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company’s underwriting advisor before complying with any request for modification.
Excess Insurance

ENDORSEMENT
Attached to Policy No. ______

Issued by
[FNTG BRAND]

The following paragraph 1A is added to the Conditions of this policy:

1A. THIS IS INSURANCE COVERAGE IN EXCESS OF PREVIOUSLY ISSUED TITLE POLICY OR POLICIES COVERING THE SAME INSURANCE RISK

(a) The Title is insured by the following prior title policy or policies:

1. Type of policy (owner's-loan) and Date of Policy:_________
   Insurer:
   Insured:
   Policy No.:
   Amount of Insurance:

2. [Continue same format if more than one prior policy issued.]

(b) It is understood and agreed between the Company and the Insured that the title policy (or policies) referred to in paragraph 1A (a) of these Conditions is primary insurance coverage and that this policy constitutes “excess insurance”. Insurance coverage under this policy which insures a risk insured under any prior policy shall only be available to the Insured for loss in excess of the Insured’s recovery under such prior policy.

(c) Nothing contained herein shall be construed to preclude the filing of a claim of loss under this policy prior to recovery under a prior policy referred to in Paragraph 1A (a) of these Conditions nor to relieve the Company of its obligations under this 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.

Dated:

By: ____________________________
    Authorized Signatory
OPTION TO PURCHASE ENDORSEMENT
FORM A – Option primed by intervening matters
FORM B – Option priority relates back

PURPOSE

Form A of this endorsement is designed to provide insurance that at the date of the endorsement the option to purchase the Land is valid and that the rights of the optionee thereunder are vested in the Insured, subject to the terms of the option agreement. As explained more fully below, Form A provides no coverage for the priority of the option.

Form B of this endorsement is designed to provide insurance as to the priority, validity and enforceability of an option to purchase the Land and that the rights of the optionee thereunder are vested in the Insured as of the date of the endorsement, subject to the terms of the option agreement.

SECTION OF POLICY AMENDED BY ENDORSEMENT

Form A does not specifically amend any portion of the policy, although it does provide limited coverage to the optionee as to the validity of the option.

Form B of this endorsement does not specifically amend any portion of the policy. It does provide additional coverage to the optionee as to the validity, priority and enforceability of the option, and also provides for payment of costs and attorneys’ fees incurred in defending against an attack on the validity, priority or enforceability of the option. However, this endorsement excludes coverage for costs and attorneys’ fees incurred in connection with exercising the option.

BASIS FOR PROVIDING COVERAGE

Considerations

For Form A: This endorsement is designed to be issued in those states where (1) it is uncertain as to whether Title received at the time of the exercise of the option will relate back to the granting of the option or (2) it is clear that it will not relate back.
For Form B: This endorsement is designed to be issued in those states where it is clear that the option is a recordable instrument and that upon conveyance of the Land pursuant to the option, Title will relate back to the recording of the option.

For Both Forms

The option document must be recorded.

An option to purchase land may be subject to the Rule Against Perpetuities. Some jurisdictions have exceptions for certain types of options to purchase, such as an option contained in a lease where the option can be exercised during the term of the lease. However, the majority rule is that an option to purchase is subject to the rule. This endorsement should only be given when it is clear that the option does not violate the rule.

When an option is obtained by a lender as part of a loan transaction, consideration must be given to state law prohibitions against clogging of the equity of redemption. This should include considering whether the option itself is void or whether, when coupled with the option, the lien of the mortgage might be rendered void or voidable.

Consideration must also be given to whether a lease containing an option to purchase is in fact what it appears to be. The land records may disclose that the optionee is the previous owner of the Land and the transaction is in fact a sale/leaseback with option to purchase. Care must be taken to make sure the lease states that it is a true lease and the relationship between the parties is as lessor and lessee only. Any concern over provisions of the lease must be discussed with the Company underwriting advisor.

Instructions for Use

This endorsement may be issued in connection with an ALTA Owner’s Policy or an ALTA Owner’s Policy with the ALTA 13-06 Leasehold endorsement attached insuring a lessee’s interest under a lease. When used with an ALTA Owner's Policy, the Insured will be the optionee but Title to the fee estate will be shown as being vested in the present owner. You should not describe the option interest as being the estate or interest insured. In the case of coverage by use of an ALTA Owner's Policy modified to insure a lease, the estate insured will be the Leasehold and Title will be shown as being vested in the name of the lessee of the leasehold estate, which normally will be the same entity that is the optionee.
AUTHORITY FOR ISSUANCE OF THIS ENDORSEMENT

This endorsement may not be issued without the approval of the Company's underwriting advisor, who will consider the issues, including the recharacterization and the clogging problems mentioned above.

MODIFICATION

This form is not a uniform form. In the event that modification of this endorsement or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company's underwriting advisor before complying with any request for modification.

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Option Form A

ENDORSEMENT

Attached to Policy No. ________

Issued by
[FNTG BRAND]

The Company insures the Insured against loss or damage that the Insured shall sustain by reason of the entry of a final, non-appealable order or judgment finding that the rights of the Insured in the Option described in paragraph ___ of Schedule B (“Option”) are at the date hereof invalid, and that the rights of the optionee under the Option are not vested in the Insured subject to the terms and provisions thereof.

The insurance contained herein and in the policy of which this endorsement is a part shall cease and terminate upon the exercise of the Option or on __________________, whichever occurs first.

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.

Dated:

By:____________________________________
Authorized Signatory
Option Form B

ENDORSEMENT

Attached to Policy No. _______

Issued by
[FNTG BRAND]

The Company insures the Insured against loss or damage that the Insured shall sustain by reason of the entry of a final, non-appealable order or judgment finding that the rights of the Insured in the Option described in paragraph ___ of Schedule B ("Option") are not vested in the Insured subject to the terms and provisions thereof.

The Company further insures against loss or damage which the Insured shall sustain by reason of:

1. The unenforceability of the right to exercise the Option except to the extent that such unenforceability or claim thereof is based on the failure of the Insured to have fulfilled the terms and conditions of the Option.

2. The priority over the Option of any conveyance made of the fee simple estate in the Land or of any liens or encumbrances created thereon after the Date of Policy, excepting such liens or encumbrances that would affect the Insured had the Insured been the owner of the fee simple Title instead of an Option as of Date of Policy, including, without limitation, real estate taxes, special assessments, demolition liens, drainage liens and water liens.

3. The entry of a final non-appealable order or judgment that requires the Insured, as condition to receiving specific performance of the Option, to pay a sum in excess of the Option price, other than attorneys’ fees and costs of litigation.

Nothing contained in this endorsement shall be construed as insuring the Insured against loss or damage sustained or incurred by reason of:

(a) Rejection of the Option under the provisions of the Federal Bankruptcy Code or state insolvency laws.
(b) The failure of the Insured to receive all or part of an award entered in a condemnation proceeding unless failure to share in said award stems solely by reason of the entry of a final, non-appealable order or judgment that finds the option invalid or incapable of specific performance.

(c) The failure of the Insured at the time of payment of the Option price either to have obtained proper conveyances and releases from all persons then having an interest in said Land or a lien or encumbrance thereon (the determination as to the identity of such persons and the nature of the interest, lien or encumbrance owned or claimed to be at the expense of the Insured) or to have obtained a final, non-appealable order or judgment that finds those persons and interests entitled to receive the option price.

(d) Attorneys’ fees and costs in connection with the proceedings mentioned in subparagraph (c) immediately above or in connection with an action to enforce the Option, excluding attorneys’ fees incurred to defend an attack on the validity or enforceability of said Option.

(e) Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished and imposed by law.

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.

Dated:

By: __________________________
   Authorized Signatory
ASSIGNMENT OF RENTS ENDORSEMENT-
CONTAINED WITHIN INSURED MORTGAGE

PURPOSE

Lenders occasionally request that the loan policy insure certain recorded interests that are taken as additional security for the loan primarily secured by the Insured Mortgage. The most common additional security, other than a security interest under the Uniform Commercial Code, is an assignment of rents (leases).

This endorsement is to be issued to provide certain coverages with respect to an assignment of rents (leases) that is contained within the Insured Mortgage. This endorsement provides insurance that the Public Records do not disclose any prior assignments of these same rents (leases). Please see Section 37 for the issuance of an endorsement insuring a separately recorded assignment of rents (leases).

SECTION OF POLICY AMENDED BY ENDORSEMENT

This endorsement does not amend or modify any specific policy provisions, but adds additional coverage to the terms of the policy.

BASIS FOR PROVIDING COVERAGE

Verify that the Public Records do not disclose any prior assignments of rents (leases). If a previously recorded assignment of rents (leases) is found, it must be raised as an exception in Schedule B of the policy.

NOTE: PRIOR MORTGAGES OR DEEDS OF TRUST MUST BE EXAMINED TO DETERMINE IF THEY CONTAIN ASSIGNMENTS OF RENTS (LEASES) WITHIN THEM. SEPARATE SCHEDULE B EXCEPTIONS SHOULD BE MADE FOR SUCH ASSIGNMENTS.

MODIFICATION

This form is not a uniform form. In the event that modification of this endorsement or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company’s underwriting advisor before complying with any request for modification.
Assignment of rents (leases) contained in Mortgage

ENDORSEMENT

Attached to Policy No. ______

Issued by
[FNTG BRAND]

The Company insures the Insured against loss which said Insured shall sustain by reason of the existence, as shown by the Public Records, of any assignment of the rents (leases) prior to the assignment of rents (leases) contained in the Insured Mortgage, other than as set forth 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.
ISSUANCE OF FUTURE INSURANCE

PURPOSE

This endorsement is designed to provide assurance that within a stipulated period of time we will increase the Amount of Insurance under the current policy or issue a new policy to a party designated by the Insured, subject only to then current underwriting practices and subsequent matters of record, and only if there are no claims or adverse title matters pending.

SECTION OF POLICY AMENDED BY THE ENDORSEMENT

This endorsement does not amend or modify any section of the policy.

BASIS FOR PROVIDING COVERAGE

This endorsement may be issued when the Insured will be acquiring a new interest or entering into a new security arrangement at a later date. It is not to be used as a substitute for a binder or commitment. Application for this endorsement must state the subsequent transaction for which the Insured desires insurance. This endorsement must contain a time limitation on the right of the insured to request the issuance of a new policy.

FORM A

This form does not obligate the Company to increase the amount of insurance in the face of a previously existing unknown defect in title, and is the preferred form for use in other than new construction.

FORM B

This form obligates the Company to increase the Amount of Insurance and is to be used only in new construction situations where the original Amount of Insurance represents the value of the raw land and there is no construction loan to be insured. The new policy or endorsement should raise any matters which were created, first appeared in the Public Records, attached or became Known to either the Insured or the Company subsequent to the date of the original policy, which could include pending claim matters. The form also obligates the Insured to apply for an increase in the Amount of Insurance either upon completion of the construction or within five years from the Date of Policy, whichever first occurs.
MODIFICATION

These forms are not uniform forms. In the event that modification of one or more of these forms or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company’s underwriting advisor before complying with any request for modification.

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FORM A

ENDORSEMENT

Attached to Policy No. _____

Issued by

[FNTG BRAND]

The Company agrees that if, within ________ years after the Date of Policy, application is made to increase the Amount of Insurance or to issue a new policy, it will issue additional title insurance policies, or increase the Amount of Insurance of this policy insuring such Title or interest as may then exist in the Insured or the Insured's designee. The Amount of Insurance to be issued will not exceed the amount of the mortgage to be placed on the Land or the fair market value of the Land at the date of the application. In the event a claim has been made or is pending against the Company, or a defect in Title has been discovered, the Company shall not be required to issue insurance for an amount greater than the face amount of this policy as to the defect discovered or resulting in said claim. Upon receipt of the application to issue a subsequent policy or increase the Amount of Insurance of this policy, the Company will extend its examination of the Title to the then current date, and will then issue its policy or increase the Amount of Insurance of this policy, subject to such matters created, first appearing in the Public Records, or attaching subsequent to the effective date of this policy, or which have become Known to either the Insured or the Company.

The insurance to be issued shall be subject to underwriting practices, rules, regulations and rates in effect at the date the subsequent insurance coverage is issued. The Company shall not be obligated to issue additional insurance coverage which would exceed the amount of the usual reinsurance retention of the Company if, after the exercise of reasonable effort, the Company is unable to obtain reinsurance or coinsurance as may be required in order for it to issue the full amount of additional insurance for which application is made.

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.
FORM B

ENDORSEMENT

Attached to Policy No. ________

Issued by
[FNTG BRAND]

The Insured agrees to apply for an increase in the Amount of Insurance to cover the value of the actual improvements constructed on the Land and pay the charges then applicable for such increased insurance upon completion of construction of such improvements or within 5 years after the Date of Policy, whichever first occurs. The Company agrees that when such application is made to increase the Amount of Insurance and/or to issue a new policy to the then Insured under the policy, and/or to issue a policy to such mortgagee(s), trustee(s) under deed(s) of trust, beneficiary(s) of deed(s) of trust, parties to sales and leasebacks or other types of financial transactions (hereinafter severally and collectively, as indicated by the context, referred to as “Lending Institution(s)” as may be designated by the present Insured or the then Insured under the policy, it will issue additional title insurance coverage insuring such Title and/or interest as may then exist in the Insured and/or Lending Institution in and to said premises in an amount equal to the value of the Land on the date of said application; provided the Company may then extend its examination of the Title to the then current date and, subject to such matters, if any, created, first appearing in the Public Records, attaching and/or which have become Known to either the Insured or the Company subsequent to the effective date of this policy, will increase its liability to the requested amount upon payment of its usual charges for such additional insurance coverage; and further provided, however, that the Company shall not be obligated to issue additional insurance coverage which would exceed the amount of the usual reinsurance retention of the Company if, after the exercise of its reasonable efforts, it is unable to obtain such reinsurance or coinsurance as may be required in order for it to issue the full amount of additional insurance for which application is made. The insurance to be issued shall be subject to underwriting practices, rules, regulations and rates in effect at the date the subsequent insurance coverage is issued.

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.
COVENANTS RUNNING WITH THE LAND  
(CLTA ENDORSEMENT NO. 124.1)

PURPOSE

This endorsement is sometimes called a “shopping center endorsement” or CLTA 124.1 and is typically requested in connection with multiple owner shopping center developments. Normally, the owners of the various parcels of property within a shopping center will enter into an agreement under which covenants will be made for each other’s benefit to do or not to do certain acts with regard to the use, repair, maintenance or improvement of, or payment of taxes and assessments on the property of the respective covenantors. This endorsement provides assurance that conforming covenants will be binding upon the covenantors and their successors in ownership, subject to the limitations contained in the endorsement. In other words, the instrument containing the covenants will give constructive notice to subsequent owners and lenders of the other parcels that there are burdens on their parcels. It does NOT insure the enforceability of those covenants, and any request for that type of coverage should be refused.

SECTION OF POLICY AMENDED BY ENDORSEMENT

This endorsement does not amend any section of the title policy. It expands the coverage of the policy by insuring the binding effect of both negative and affirmative covenants benefiting the insured Land and burdening other lands not included within the insured Land.

BASIS FOR PROVIDING COVERAGE

This endorsement is only available in those states which have sufficient legal precedent establishing criteria essential for creation of covenants that run with the land and are binding upon subsequent owners. Counsel must tailor insurance requirements including the form of insurance coverage to fit state law requirements.

AUTHORITY FOR ISSUANCE OF THIS COVERAGE

This endorsement shall not be issued without approval by the Company’s underwriting advisor.

No insurance shall be issued in a form which would insure enforceability or compliance with any such covenants.
MODIFICATION

This form is not a uniform form. In the event that modification of this endorsement or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company's underwriting advisor before complying with any request for modification.

Return to Table of Contents
ENDORSEMENT
Attached to Policy No.____

Issued By
[FNTG BRAND]

The Company insures against loss or damage sustained by reason of the failure of the covenants of the covenantor in favor of the covenantee set out in Section(s) _______ of the instrument recorded ________________ to do or refrain from doing some act relating to the use, repair or maintenance of the improvements, or payment of taxes and assessments on the real property, or some part thereof, described as (description of burdened land of covenantor) to be binding upon the covenantor and each successive owner, during his ownership of any portion of such real property, and upon each person having any interest therein derived from the covenantor or through any such successive owner thereof, except a mortgagee of a mortgage, or the trustee or beneficiary of a deed of trust, while not in possession of such real property in such capacity.

Provided, however, that no insurance coverage is provided by this Endorsement should such covenants fail to bind a successive owner who derives Title through: a) a tax deed; b) a foreclosure of a bond or assessment; c) enforcement of a federal tax lien; d) a bankruptcy, as trustee or otherwise; e) a right or lien existing prior to the date of recording of the instrument containing said covenants.

This endorsement does not insure against loss or damage which the Insured may sustain by reason of the non-performance of any said covenants.

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.

DATED:

BY: _____________________________
AUTHORIZED SIGNATURE

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CLTA FORM 124.1-06 (03-09-07)
REVOLVING CREDIT MORTGAGE ENDORSEMENTS

PURPOSE

These endorsements provide coverage for the enforceability and priority of the lien of the Insured Mortgage as security for revolving credit loan advances. There are four endorsements. Each is designed to apply to one of the four general legal patterns for future advance mortgages in the United States. See also Section 14 for ALTA endorsements that may be used, if appropriate, to insure the priority of advances made under a revolving credit facility.

SECTION OF THE POLICY AMENDED BY ENDORSEMENT

Each endorsement modifies Exclusions from Coverage No. 3(d) and Conditions No. 1 (d)(ii). They also expand the coverage granted by Covered Risks 9 and 10 to those amounts included within the definition of Indebtedness at Condition 1(d) by using and defining the term “Advances” to include those amounts.

BASIS FOR PROVIDING COVERAGE

Preliminary Considerations

Security

To secure repayment of future advances of funds by the lender, the mortgage or deed of trust must provide for such future advances. The mortgage does not need to provide for revolving credit unless the principal balance could be paid down to zero and then funds could be re-advanced under the note. If that happens (which is not unusual in a revolving line of credit) the security instrument may not secure subsequent future advances (or re-advances) unless the parties agree that it will.

Under Section 549 of the Bankruptcy Code, the bankruptcy trustee of a borrower may have the power to avoid the lien of a mortgage or trust deed to the extent it secures advances made after the lender has notice of the bankruptcy. The recording or filing of a copy of the petition, or a notice that the petition has been filed, is sufficient to give the lender that notice. The courts have construed notice very broadly. Therefore, draws against a revolving credit line and other loan advances which are funded after a bankruptcy filing may be in jeopardy of being unsecured.

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Priority

The priority of the mortgage or deed of trust as security for future advances depends upon the factors discussed below. The problems arise where a lien or encumbrance is created or attaches after recording of the mortgage or trust deed but prior to a future advance.

Ordinary Liens and Encumbrances

Notice

In order for a future advance to have priority over an intervening matter, the mortgage or trust deed must have given notice at the time it was originally recorded that it would secure future advances. For purposes of this coverage, which deals with future advances, repayment and re-advances, the Insured Mortgage must contain whatever language about future advances or revolving credit that may be required under state law to give constructive notice and establish priority.

Obligation to Advance

Whether the lender is obligated to make the advance at the time the intervening party’s lien or encumbrance attaches to the borrower’s Title is important to priority in most states. If the lender is legally obligated to make the advance at the time (“obligatory advance”), the lien securing it is prior to the lien or encumbrance of the intervening party. An advance is obligatory if the lender could be successfully sued for damages if it did not make it. The obligation to advance may have some conditions (“the borrower must be alive”, “the borrower must still own the property”), but these conditions must be objective and not subjective on the part of the lender. Therefore, any conditions on the lender’s obligation to fund must not be under the lender’s control. If the lender is not obligated to fund after any lien or encumbrance attaches to the Title, advances made after the attachment of such a lien are optional (“optional advance”). An advance can start as obligatory, but if a lender chooses to advance when a condition has not been met the advance becomes optional. The rule differs among the states as to the priority of an optional advance over an intervening matter:

Majority Rule: A future advance mortgage lien is prior if the lender does not have actual notice of the intervening matter at the time of the advance. Thus the advance will have priority over intervening matters even if recorded so long as the lender does not have actual knowledge of them.
Minority Rule: A future advance mortgage lien is prior if the lender has neither actual nor constructive notice of the intervening matter at the time of the advance. A future advance will lose priority to either an unrecorded intervening matter of which the lender has knowledge or an intervening matter which has been recorded which is not known to the lender.

Unless the agreement between the lender and borrower provides for a cure by the borrower, any advance made after a default by the borrower is an optional advance. Where an obligatory advance agreement contains a cure provision, advances made after cure are again obligatory. Therefore they would be entitled to priority over encumbrances attaching after cure but before the advance. Advances made after default and before cure would be treated as optional advances.

Special Cases: Federal Tax Liens, Mechanics’ Liens and Environmental Protection Liens

Federal Tax Liens

There is some argument about the priority of federal tax liens with respect to the security for disbursements under a construction loan. Under the worst case view, the construction loan mortgage lien has the same priority over federal tax liens as it would have over a judgment lien under state law.

However, no advance made under an ordinary future advance mortgage is protected against a federal tax lien recorded after the mortgage where the advance is made (1) more than 45 days after the recording of the tax lien notice or (2) after actual notice of the tax lien, whichever occurs first. Whether the advance is optional or obligatory is immaterial.

Mechanics’ Liens (Construction Liens)

The law of many states would give mechanics’ liens priority over the lien of the Insured Mortgage. In some states, this is limited to those mortgages or trust deeds which finance the construction out of which the liens arise. Other states may treat mechanic’s liens like other types of liens with respect to future advance mortgages if the mortgage was recorded before the visible commencement of construction. The effect of mechanics’ liens on the priority of future advances must always be considered.
Environmental Protection Liens

Currently, federal law and the laws of many states create governmental liens to secure repayment for the cost of cleaning the environment of toxic or hazardous waste. These liens may also secure repayment for the damage done to the environment. Under some state laws, these liens have priority over existing liens. It is possible for them to be created without recording or filing in the local real estate records. The impact of such liens on the priority of future advances is uncertain.

Forms of Coverage

Subject to any state regulatory requirements which may exist, the following endorsements are preferred for providing of revolving credit advances:

For obligatory advance loans:
- Revolving Credit Endorsement A
- Revolving Credit Endorsement B

For optional advance loans:
- Revolving Credit Endorsement C
- Revolving Credit Endorsement D

Effect of the Endorsements

Common features

All of the endorsements relax the limitation of liability imposed by the Conditions and Exclusions from Coverage noted above, to the extent of the insurance they provide. However, they do not cover disbursements made after the borrower no longer has Title to the Land. All of these forms eliminate coverage for advances made after notice that the borrower has become a debtor in a bankruptcy case.

Differences

These endorsements differ only in the scope of the exclusion from coverage in Paragraph e. of the Endorsement.
Endorsements A and B cover obligatory advance agreements.

Paragraph e. excludes from priority only those advances made after the lender is no longer obligated to fund them. After that point, the law will treat advances as optional. The endorsements differ from each other in their treatment of advances made after default or some other event excusing the lender from its funding obligations.

Endorsement A is for use in the majority law states. (Lender must have actual knowledge of intervening matter).

Endorsement B is tailored for the minority view. (Lender has actual or constructive knowledge of intervening matter).

Endorsements C and D cover optional advance agreements.

Endorsement C is for optional advance loans in those states applying the majority rule. It gives no insurance of priority over matters Known (which under the policy means actually known) to the insured before the advance of funds.

Endorsement D is for optional advance loans in those states adopting the minority position. It denies priority coverage against intervening encumbrances either actually or constructively known to the Insured before the advance of funds. In other words, it does not insure priority over subsequently recorded liens.

Instructions for Issuance

You must check with the Company’s underwriting advisor to see which forms are available in your state and whether any modification of these instructions is necessary. While the forms here should be sufficient for the majority of states, there may be statutes or court decisions in some states which have not been considered. If no modification is required, you are authorized to proceed as follows:

1. Determine that the Insured Mortgage clearly states that it secures future advances. The statement that it secures a revolving line of credit or a revolving credit agreement is sufficient. You must not issue any of these endorsements if the Insured Mortgage is not clear on this point.

2. Determine whether or not it is possible for the lender to make advances after the loan balance is paid down to zero (“zero balance”). If it is, then either the Insured Mortgage must stipulate that advances made thereafter are secured or the law in your state must
so provide. If neither is the case, you must either require that the Insured Mortgage be modified to provide for this or decline to issue the endorsement.

3. Determine whether the state where the land lies applies the majority or minority rule on priority of optional advances. Consult the Company's underwriting advisor when making this determination.

If the minority rule is applied, you must not issue Endorsements A or C. If there is no law on which rule will be applied, then you may issue Endorsements A or C only to loan policies insuring second or lower priority mortgages or deeds of trust on individual single family residential houses or condominiums. However, Endorsement A may only be issued if the lender is obligated to make the future advances. (See No. 4, below)

4. Determine whether the advances are initially obligatory or optional. If they are optional, neither Endorsement A nor Endorsement B may be issued. Agreements ("insecurity clauses,") which provide that lender is not obligated to fund if, at any point, it believes the borrower has become incapable of repaying the loan, should be considered optional advance agreements. If in doubt, advances should be treated as optional.

If advances are initially obligatory, Endorsements A or B may be issued. Endorsement A should be issued in states which apply the majority law on optional advances. Endorsement B should be used in those states applying the minority law. However, if one or more events other than a default by the borrower excuses the lender's obligation to make a further advance, those events must be added at the end of paragraph e. in these endorsements. If the agreement characterizes the only events relieving the lender's obligation as events of default, then no additional language is necessary in the endorsement.
**Selection of endorsement-summary table**

<table>
<thead>
<tr>
<th>State law on optional advances</th>
<th>Nature of Advances</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Obligatory</td>
</tr>
<tr>
<td>Majority Law</td>
<td>A, B*, C*, D*</td>
</tr>
<tr>
<td>Minority Law</td>
<td>B, D*</td>
</tr>
<tr>
<td>Law unsettled</td>
<td>A**, B</td>
</tr>
</tbody>
</table>

* Provides less than the maximum coverage available.

**For use only with second or lower priority mortgages on single family residences (see instructions, above.)

5. You are authorized to delete the exception for mechanic’s liens (paragraph d.) from any of these endorsements issued to loan policies covering second or lower priority mortgages on single family residence, where advances are obligatory. **Contact the Company’s underwriting advisor to determine if deletion of this exception is appropriate under any other circumstances.**

6. If you are asked to extend the coverage of Endorsements A or B to disbursements made after a cure of a default or other event which excused the lender’s obligation to fund, you may add the following language to the end of Paragraph e. after you have made the determination stated below:

   **but prior to a cure of said default [or other event eliminating lender’s obligation to fund (if applicable)].**

To do this, you must determine that either the note or the revolving credit agreement reobligates the lender to fund after the occurrence of some stated event which cures the default. The most usual event would be the borrower bringing his account current within a certain period of time.
Any questions you may have about these instructions should be directed to the Company's underwriting advisor.

MODIFICATION

These forms are not uniform forms. In the event that modification of one or more of these forms or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company's underwriting advisor before complying with any request for modification.

Return to Table of Contents
Revolving Credit Endorsement A - Obligatory Advances – [Majority Law]

ENDORSEMENT

Attached to Policy No. _____

Issued by
[FNTG BRAND]

Any advance made by the Insured after Date of Policy is included within the coverage of this policy if:

1. The advance is made pursuant to [name of future agreement], according to its terms at Date of Policy, and

2. The party shown in Schedule A as vested in Title is so vested at the time of the advance and is not at that time a debtor in a bankruptcy case of which the Insured has actual or constructive notice.

The Company insures the Insured against loss the Insured shall sustain by reason of the priority of any lien or encumbrance over the lien of the Insured Mortgage as security for any such advance, except for any of the following:

a. Any lien or encumbrance which appears in Schedule B.

b. Any tax or assessment which becomes a lien after Date of Policy.

c. Federal tax liens of which the Insured has actual or constructive notice arising subsequent to Date of Policy and prior to the making of the advance.

d. Any lien, or right to a lien, which is imposed by law to secure payment for labor, services or materials supplied after Date of Policy.

e. Any lien or encumbrance, arising after Date of Policy and prior to the making of the advance, of which the Insured has actual notice at the time the advance is made, if the advance is made after an event of default by the borrower or after [indicate other event eliminating lender's obligation to fund].

f. Any environmental protection lien arising after 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.
Revolving Credit Endorsement B - Obligatory Advances – [Minority Law]

ENDORSEMENT

Attached to Policy No. _____

Issued by

[FNTG BRAND]

Any advance made by the Insured after Date of Policy is included within the coverage of this policy if:

1. The advance is made pursuant to [name of future agreement], according to its terms at Date of Policy, and

2. The party shown in Schedule A as vested in Title is so vested at the time of the advance and is not at that time a debtor in a bankruptcy case of which the Insured has actual or constructive notice.

The Company insures the Insured against loss the Insured shall sustain by reason of the priority of any lien or encumbrance over the lien of the Insured Mortgage as security for any such advance, except for any of the following:

a. Any lien or encumbrance which appears in Schedule B.

b. Any tax or assessment which becomes a lien after Date of Policy.

c. Federal tax liens of which the Insured has actual or constructive notice arising subsequent to Date of Policy and prior to the making of the advance.

d. Any lien, or right to a lien, which is imposed by law to secure payment for labor, services or materials supplied after Date of Policy.

e. Any lien or encumbrance, arising after Date of Policy and prior to the making of the advance, of which the Insured has actual or constructive notice at the time the advance is made, if the advance is made after an event of default by the borrower or after [indicate other event eliminating lender’s obligation to fund].

f. Any environmental protection lien arising after 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.
Revolving Credit Endorsement C - Optional Advances - [Majority Law]

ENDORSEMENT

Attached to Policy No. ______

Issued by

[FNTG BRAND]

Any advance made by the Insured after Date of Policy is included within the coverage of this policy if:

1. The advance is made pursuant to [name of future agreement], according to its terms at Date of Policy, and

2. The party shown in Schedule A as vested in Title is so vested at the time of the advance and is not at that time a debtor in a bankruptcy case of which the Insured has actual or constructive notice.

The Company insures the Insured against loss the Insured shall sustain by reason of the priority of any lien or encumbrance over the lien of the Insured Mortgage as security for any such advance, except for any of the following:

a. Any lien or encumbrance which appears in Schedule B.

b. Any tax or assessment which becomes a lien after Date of Policy.

c. Federal tax liens of which the Insured has actual or constructive notice arising subsequent to Date of Policy and prior to the making of the advance.

d. Any lien, or right to a lien, which is imposed by law to secure payment for labor, services or materials supplied after Date of Policy.

e. Any lien or encumbrance, arising after Date of Policy and prior to the making of the advance, of which the Insured has actual notice at the time the advance is made.

f. Any environmental protection lien arising after 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.
Revolving Credit Endorsement D - Optional Advances – [Minority Law]

ENDORSEMENT

Attached to Policy No. ______

Issued by
[FNTG BRAND]

Any advance made by the Insured after Date of Policy is included within the coverage of this policy if:

1. The advance is made pursuant to [name of future agreement], according to its terms at Date of Policy, and

2. The party shown in Schedule A as vested in Title is so vested at the time of the advance and is not at that time a debtor in a bankruptcy case of which the Insured has actual or constructive notice.

The Company insures the Insured against loss the Insured shall sustain by reason of the priority of any lien or encumbrance over the lien of the Insured Mortgage as security for any such advance, except for any of the following:

a. Any lien or encumbrance which appears in Schedule B.

b. Any tax or assessment which becomes a lien after Date of Policy.

c. Federal tax liens of which the Insured has actual or constructive notice arising subsequent to Date of Policy and prior to the making of the advance.

d. Any lien, or right to a lien, which is imposed by law to secure payment for labor, services or materials supplied after Date of Policy.

e. Any lien or encumbrance, arising after Date of Policy and prior to the making of the advance, of which the Insured has actual or constructive notice at the time the advance is made.

f. Any environmental protection lien arising after 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.
LAST DOLLAR ENDORSEMENT
(For Use With Policy Forms Other Than The ALTA 2006 Loan Policy)

Purpose

This endorsement is designed to provide coverage to the lender in a situation where the loan amount exceeds the value of the real property. This situation commonly occurs, for example, in the financing of an ongoing business. The real property is often only a small part of the purchase price that is being borrowed. [Without this coverage, the liability under the policy could be reduced to zero by the repayment of the principal long before the entire debt is retired.]

Section of Policy Amended by Endorsement

Condition and Stipulation 9 REDUCTION OF INSURANCE of the 1987, 1990 and 1992 ALTA Loan Policy (Section 8 in 1970 version) provides for the reduction of liability by the repayment of the principal of the indebtedness. Condition and Stipulation 7 DETERMINATION AND EXTENT OF LIABILITY (Section 6 in 1970 version) defines the loss under the loan policy as the unpaid principal indebtedness as reduced under the Condition and Stipulation 9 (Section 8 in the 1970 version). This endorsement amends these two sections to provide that the repayment of the debt will first be applied to reduce the amount of the indebtedness in excess of the liability under the policy. This would result in the insurance provided under the policy not being reduced by repayment until the outstanding balance of the debt equals the amount of liability under the policy. At that point, the liability would be reduced, pro tanto (or dollar for dollar), by subsequent repayment of the debt. The policy would then provide coverage to the last dollar of indebtedness.

ALTA structured the 2006 Loan Policy in such a way that this endorsement is no longer needed. Condition 9. LIMITATION OF LIABILITY no longer contains the provision that the Amount of Insurance is reduced by the repayment of principal pro tanto. Rather, the definition of Indebtedness under Conditions 1. (d) provides that the amount of the Indebtedness (not the Amount of Insurance) is reduced by the total of all payments and by any amount forgiven. The result is that as long as the Indebtedness does not fall below the Amount of Insurance, coverage will not be reduced by repayment of principal.
BASIS FOR PROVIDING COVERAGE

This endorsement cannot be used with the ALTA 2006 Policy Form.

Care must be taken to make sure that the form and/or rate is filed in those states that require filing.

If the mortgage collateralizes a revolving line of credit, this endorsement should be modified to reflect that it covers money paid and repaid under the revolving credit agreement.

MODIFICATION

This form is not a uniform form. In the event that modification of this endorsement or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company's underwriting advisor before complying with any request for modification.

Return to Table of Contents
Second Dollar Endorsement (For 1987, 1990 and 1992 versions)

ENDORSEMENT
Attached to Policy No. ______

Issued by
[FNTG Brand]

The Company has been advised by the insured that the mortgage insured herein secures an indebtedness to the insured in an amount in excess of the amount of this policy. The Company agrees that in calculating the amount of indebtedness secured by the insured mortgage under paragraphs 7 and 9 of the Conditions and Stipulations of this policy, payments made to reduce the amount of said indebtedness (except payments made by the Company pursuant to provisions of this policy) shall be deemed applied first to the portion of said indebtedness that is in excess of the amount of insurance stated in Schedule A.

Furthermore, it is agreed that the books and records of the insured with respect to the payment of the indebtedness secured by the mortgage shall be conclusive evidence of the application of payments of the indebtedness. Said books and records shall be kept according to any proper and recognized method of accounting for payment of secured obligations.

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.

Dated:

By: ________________________________

Authorized Signatory
TAX CREDIT BENEFIT ENDORSEMENT

PURPOSE

These endorsements are often requested in conjunction with the issuance of an Owners Policy covering Land that has been developed in such a way as to afford the owners or the investors certain tax credits, such as Low Income Housing Tax Credits, under the IRS Code.

SECTIONS OF POLICY AMENDED BY ENDORSEMENT

These endorsements indirectly modify Condition 8 of the Owners Policy by recognizing the value of the loss of the tax benefit as a basis for loss under the policy. Without these endorsements, the value of the Title may not take into consideration any value of the Tax Benefit that was lost due to a title issue. The market value of the Land may be enhanced by the special tax treatment that the owner enjoys.

BASIS FOR PROVIDING COVERAGE

There are 3 forms of Endorsement attached.

- The Tax Benefit Endorsement-Insured which runs to the benefit of the named Insured
- The Tax Benefit Endorsement [limited partner/member] which runs to the benefit of a specific investor in the Insured.
- The Tax Benefit Endorsement – No Increase in Amount of Insurance benefits the named Insured

The first two endorsements shown contain a separate amount of insurance which is in addition to the Amount of Insurance afforded under the Policy and for which a separate premium based on the specific increased amount of liability needs to be charged and collected at the current rates. The third endorsement expands the basis for loss under the policy generally, and should have a risk premium attached to it, even though the Amount of Insurance is not increased, since this is additional coverage that would not be afforded by the policy without the endorsement.

The Tax Benefit Endorsement-[limited partner/member] should be customized to name the investor and describe the specific type of investor (member or limited partner) and then name the entity that is being insured in the underlying Policy. The Additional Insured under this endorsement is different party than the Insured under the Policy.
MODIFICATION

This form is not a uniform form. In the event that modification of this endorsement or your state form is requested, it is necessary to consider the state regulatory requirements for filing and approval of forms. You must obtain the approval of the Company's underwriting advisor before complying with any request for modification, including the referencing of other sections of the Tax Code.

Return to Table of Contents
Tax Benefit Endorsement-Insured

ENDORSEMENT
Attached to Policy No.______

Issued by
[FNTG BRAND]

Amount of Insurance: $________________________

For purposes of this Endorsement, the following general provisions shall apply:

(a) The term “Tax Benefit” shall mean the Low Income Housing Credit pursuant to Section 42 of the Internal Revenue Code of 1986, as amended (the "Low Income Housing Credit"). The Company acknowledges that Improvements constructed upon the land described in Schedule A may be treated by the Insured as low-income buildings pursuant to said Section 42.

(b) The term “Tax Benefit Loss” shall mean that, as a result of a matter falling within the insuring provisions of the Policy, subject to the Exclusions, Exceptions and Conditions of the Policy, the Insured is not able to claim the Low Income Housing Tax Credit or is required to recapture all or any portion of the Low Income Housing Tax Credit.

If a defect in the Title insured against in the Policy results in a Tax Benefit Loss, the Company agrees to pay to the Insured the amount which the Insured is required to pay, and does pay, or which the Insured is unable to claim, by reason of the application of the Internal Revenue Code of 1986, as amended, now and hereafter in effect. The Company's obligations to pay the Insured under this Endorsement; (a) does not affect or modify and is in addition to the Company's obligations to pay the Insured under the Policy for any loss or damage incurred by the Insured under the Policy; (b) does not reduce the Amount of Insurance of the Policy; and (c) is limited to the amount of insurance stated above on this Endorsement. Any payment under this Endorsement shall reduce the Company's liability hereunder and the amount of insurance under this Endorsement shall be reduced by a corresponding amount.

The Company shall not be obligated for any costs, attorneys' fees or expenses incurred by any Insured under the Policy or this Endorsement in defending or establishing the Tax Benefit.

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 to it.

[Witness Optional]

DATED:

[FNTG BRAND]

BY: _____________________________
AUTHORIZED SIGNATORY

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**Tax Benefit Endorsement- [limited partner/member]**

**ENDORSEMENT**

Attached to Policy No.______

Issued by

[FNTG BRAND]

Amount of Insurance: $__________________________

The Company acknowledges that _________________________________________, which is the [limited partner/member] of ________ (the "Partnership or "LLC"), is an Additional Insured ("Additional Insured") under this Policy but only for and limited to the specific dollar amount of coverage expressed above in this Endorsement.

For purposes of this Endorsement, the following general provisions shall apply:

(a) The term "Tax Benefit" shall mean the Low Income Housing Credit pursuant to Section 42 of the Internal Revenue Code of 1986, as amended (the "Low Income Housing Credit"). The Company acknowledges that Improvements constructed upon the land described in Schedule A may be treated by the Additional Insureds as low-income buildings pursuant to said Section 42.

(b) The term "Tax Benefit Loss" shall mean that, as a result of a matter falling within the insuring provisions of the policy, subject to the Exclusions, Exceptions and Conditions of the Policy, the [Partnership/LLC] is not able to claim the Low Income Housing Tax Credit or is required to recapture all or any portion of the Low Income Housing Tax Credit.

Except to the extent of reimbursement received by them from the [Partnership/LLC], if a defect in the Title insured against in the Policy results in a Tax Benefit Loss, the Company agrees to pay, to the Additional Insured named in this Endorsement, the amount which they, or any of them are required to pay, and do pay, or which they, or any of them, are unable to claim, by reason of the application of the Internal Revenue Code of 1986, as amended, now and hereafter in effect. The Company’s obligations to pay the Additional Insured named herein to and under this Endorsement: (a) does not affect or modify and is in addition to the Company’s obligations to pay the Insured under the Policy for any loss or damage incurred by the Insured under the Policy; (b) does not reduce the Amount of Insurance of the Policy; and (c) is limited to the amount of insurance stated above on this Endorsement. Any payment under this Endorsement shall reduce the Company’s liability hereunder and the amount of insurance under this Endorsement shall be reduced by a corresponding amount.

The Company shall not be obligated for any costs, attorneys’ fees or expenses incurred by any Insured under the Policy or this Endorsement in defending or establishing the Tax Benefit.

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 to it.

[Witness Optional]

DATED:

[FNTG BRAND]

BY: _____________________________

AUTHORIZED SIGNATORY

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Tax Benefit Endorsement – no increase in Amount of Insurance

ENDORSEMENT
Attached to Policy No._______

Issued by
[FNTG BRAND]

The Company hereby insures the Insured that in the event of any occurrence, defect, lien or encumbrance otherwise insured against by this policy, the loss or damage incurred by the Insured shall be deemed to be the difference between (1) the value of the Title as insured under this policy taking into consideration the tax credit status of the Insured pursuant to applicable sections of the Internal Revenue Code in effect at the Date of Policy (the “Value of the Title”) prior to such occurrence, defect, lien or encumbrance, and (2) the Value of the Title after such defect, occurrence, lien or encumbrance.

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 to it.

[Witness Optional]

DATED:
[FNTG BRAND]
BY: _____________________________
AUTHORIZED SIGNATORY