



2006 ALTA Policy and Endorsement Forms

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I. INTRODUCTION

The American Land Title Association (“ALTA”) Forms Committee has completed its work on a project that began in late 2003 – to revise the standard, or “base,” ALTA Owner’s and Loan Policy forms and a number of related forms. These new forms were formally adopted by the ALTA Board of Governors at its meeting on June 17, 2006. The new policy forms bear the adoption date of “6/17/06” and will be known as the “2006 ALTA Owner’s Policy,” the “2006 ALTA Loan Policy” and the “2006 ALTA Short Form Residential Loan Policy.”

The following additional forms, consisting of 2 revised Commitment forms and 44 endorsement forms, also bear a “6/17/06” adoption date:

- ALTA Commitment Form
- ALTA Plain Language Commitment Form
- ALTA Endorsement 1-06 (Street Assessments)
- ALTA Endorsement 2-06 (Truth-in-Lending)
- ALTA Endorsement 3-06 (Zoning – Unimproved Land)
- ALTA Endorsement 3.1-06 (Zoning – Improved Land)
- ALTA Endorsement 4-06 (Condominium)
- ALTA Endorsement 4.1-06 (Condominium)
- ALTA Endorsement 5-06 (Planned Unit Development)
- ALTA Endorsement 5.1-06 (Planned Unit Development)
- ALTA Endorsement 6-06 (Variable Rate)
- ALTA Endorsement 6.2-06 (Variable Rate-Negative Amortization)
- ALTA Endorsement 7-06 (Manufactured Housing Unit)
- ALTA Endorsement 7.1-06 (Manufactured Housing Unit-Conversion; Loan)
- ALTA Endorsement 7.2-06 (Manufactured Housing Unit-Conversion; Owner’s)
- ALTA Endorsement 8.1-06 (Environmental Protection Lien)

Exhibit “C”

**COMPARISON OF THE 1992 AMERICAN LAND TITLE ASSOCIATION
OWNER’S POLICY WITH 2006 AMERICAN LAND TITLE ASSOCIATION
OWNER’S POLICY – WITH COMMENTS**

- ALTA Endorsement 9-06 (Restrictions, Encroachments, Minerals)
- ALTA Endorsement 9.1-06 (Restrictions, Encroachments, Minerals-Owner's Policy-Unimproved Land)
- ALTA Endorsement 9.2-06 (Restrictions, Encroachments, Minerals-Owner's Policy-Improved Land)
- ALTA Endorsement 9.3-06 (Restrictions, Encroachments, Minerals-Loan Policy-Future Improvements Re Minerals Extraction)
- ALTA Endorsement 9.4-06 (Restrictions, Encroachments, Minerals-Owner's Policy-Unimproved Land-Future Improvement Re Minerals Extraction)
- ALTA Endorsement 9.5-06 (Restrictions, Encroachments, Minerals-Owner's Policy-Improved Land-Future Improvements Re Minerals Extraction)
- ALTA Endorsement 10-06 (Assignment)
- ALTA Endorsement 10.1-06 (Assignment and Date Down)
- ALTA Endorsement 11-06 (Mortgage Modification)
- ALTA Endorsement 12-06 (Aggregation)
- ALTA Endorsement 13-06 (Leasehold-Owner's)
- ALTA Endorsement 13.1-06 (Leasehold-Loan)
- ALTA Endorsement 14-06 (Future Advance-Priority)
- ALTA Endorsement 14.1-06 (Future Advance-Knowledge)
- ALTA Endorsement 14.2-06 (Future Advance-Letter of Credit)
- ALTA Endorsement 14.3-06 (Future Advance-Reverse Mortgage)
- ALTA Endorsement 15-06 (Nonimputation-Full Equity Transfer)
- ALTA Endorsement 15.1-06 (Nonimputation-Additional Insured)
- ALTA Endorsement 15.2-06 (Nonimputation-Partial Equity Transfer)
- ALTA Endorsement 16-06 (Mezzanine Financing)
- ALTA Endorsement 17-06 (Access and Entry)
- ALTA Endorsement 17.1-06 (Indirect Access and Entry)
- ALTA Endorsement 18-06 (Single Tax Parcel)
- ALTA Endorsement 18.1-06 (Multiple Tax Parcel)
- ALTA Endorsement 19-06 (Contiguity-Multiple Parcels)
- ALTA Endorsement 19.1-06 (Contiguity-Single Parcel)
- ALTA Endorsement 20-06 (First Loss-Multiple Parcel Transaction)
- ALTA Endorsement 21-06 (Creditors' Rights)
- ALTA Endorsement 22-06 (Location)
- ALTA Endorsement 22.1-06 (Location and Map)

Each of the endorsements underlined in the list above are new and will be discussed in Section V below. All of the other endorsements are revisions of existing ALTA Endorsements that have been tailored so they will work with the 2006 ALTA Owner's or Loan Policies, as applicable. Every endorsement in this list will also have a counterpart without the "-06" in its number to signal that it is the form that should be issued with the 1992 ALTA Owner's or Loan Policies, as applicable.

As the new policy forms were adopted by ALTA the forms we know today as the 1992 ALTA Owner's and Loan Policies will be withdrawn. However, to afford sufficient time to complete the process of filing the new forms with and, where required, obtaining approval of the forms by the various state Departments of Insurance, and to afford the industry's customer groups sufficient time to learn about and determine the acceptability of the forms, a delayed withdrawal date of July 17, 2007 was imposed by ALTA.

II. WHY NEW POLICY FORMS?

The last time the title insurance industry substantially rewrote its standard policy forms was 1986-87, the forms that became known as the "1987 ALTA Owner's and Loan Policies," after a technical correction was made in October 1987 to the forms that were initially adopted in 1986. These are the same forms we know today as the "1992 ALTA Owner's and Loan Policies" after an amendment in 1992 that added the 1992 version of the so-called "creditors' rights exclusion" (Exclusion 4 of the Owner's Policy and Exclusion 7 of the Loan Policy). While those forms have worked well over the past twenty years, the combined experience of the members of the ALTA Forms Committee ("Forms Committee") led us to believe that a number of improvements could and should be made in order to bring the forms current for the twenty-first century, by addressing developments such as electronic conveyance and mortgage transactions, and deliver to the industry's customer groups in a standard or "base" set of policy forms, a commercially sound package of title insurance coverage.

III. THE FORMS DRAFTING PROCESS

A. The ALTA Forms Committee

The Forms Committee consists of a group of title insurance industry veterans with aggregate years of experience in excess of 384 years (averaging in excess of 27 years) representing each of the major title insurance underwriters (Chicago Title Insurance Company, Commonwealth Land Title Insurance Company, Fidelity National Title Insurance Company, First American Title Insurance Company, Lawyers Title Insurance Corporation, Old Republic National Title Insurance Company, Stewart Title Guaranty Company, and Transnation Title Insurance Company) as well as the largest Bar-Related® Title Insurers (Attorneys' Title Insurance Fund, Inc. – Florida; Attorneys' Title Guaranty Fund, Inc. – Illinois; and CATIC® - Connecticut Attorneys Title Insurance Company). Every title insurance form this Committee drafts is a true collaborative effort and a testament to the adage, "multiple minds are better than one." The Forms Committee also receives valued input from members of some of the state land title associations, including the California Land Title Association Forms & Practices Committee, and from other title industry members who track the progress of each draft as it is posted to the ALTA website at www.alta.org.

B. Customer Group Input

It has long been the practice of ALTA to expose every proposed product to its customer groups and to afford those groups opportunity to comment. The Forms Committee benefits by carefully considering and often adopting the comments it receives from the customer group representatives. Among the most active of these customer group representatives is the Title Insurance Committee of the American College of Real Estate Lawyers (“ACREL”). Several members of the Forms Committee are also members of the ACREL Title Insurance Committee and serve as the liaisons between the two groups carrying their respective messages so that each receives the benefit of the input the other provides. In addition, the American College of Mortgage Attorneys (“ACMA”), through its Title Insurance Committee, as well as Fannie Mae and Freddie Mac provided valuable input.

C. The Drafts

The drafting process began with the Loan Policy as it typically contains all of the coverage of an Owner’s Policy that pertains to the underlying title and then adds coverage that pertains to the lien of the insured lender’s security instrument that encumbers the title. Over the course of this nearly three year project, the Forms Committee prepared 8 drafts of the Loan Policy that it distributed publicly and 2 to 3 additional drafts that were not released publicly because they bridged Forms Committee meetings at which the non-public drafts were proofed and made “final” for public review and comment. Once satisfied with the condition of the draft Loan Policy, the Forms Committee turned its attention to the Owner’s Policy and the remaining forms and completed 2 to 3 “public” drafts of each of those forms.

D. Expected Use of New Policy Forms

The 2006 ALTA Owner’s and Loan Policies have been drafted with the expectation they will be used for both residential and commercial real estate transactions. Within the past 8 years, the Forms Committee has drafted and the ALTA has adopted both owner’s and loan policy forms designed specifically for residential transactions. These forms are the (1) ALTA Homeowner’s Policy of Title Insurance, originally adopted in 1998 (bearing the adoption date “10/17/98”) and modified in one minor respect in 2003 (bearing a modification date of “10/22/03”), (2) ALTA Expanded Coverage Residential Loan Policy, adopted in 2001 (bearing the adoption date “10/13/01”), and (3) ALTA Short Form Expanded Coverage Residential Loan Policy adopted in 2003 (bearing the adoption date “10/22/03”). Each of these policy forms build in substantially broader coverage than the 1992 Owner’s and Loan Policies and are designed for improved one-to-four family residential or condominium property. Because there are many types of residential transactions that do not qualify for these “residential-specific” forms (for example, vacant land transactions), the Forms Committee recognized that the standard or “base” 2006 ALTA Policy forms need to work equally well in the context of both residential and commercial transactions.

IV. HIGHLIGHTS OF CHANGES

Attached as Exhibits “A” and “B” to this paper are bullet-point summaries of the changes made to each of the Owner’s and Loan Policy, respectively. Also attached as Exhibits “C” and “D” to this paper are more detailed side-by-side comparisons with “Comments,” as prepared by the Forms Committee, of each of the 2006 ALTA Owner’s and Loan Policies, respectively, to the 1992 ALTA Owner’s and Loan Policies. This section will highlight by topic the more significant changes to these forms.

A. The “Exclusion to an Exclusion” Issue

One of the major goals of the Forms Committee was to address an issue that was first created in the 1984 Amendment to the 1970 form policies and carried into the 1987 Policies (today known as the “1992 Policies”). The issue is whether coverage is created by exclusions to exclusions or “double negatives” (in math we learned that a double negative equals a positive; is that also the case when interpreting insurance contracts?). Some courts have held that, when interpreting insurance contracts, the analysis of coverage begins and ends with the insuring clauses – if you do not find coverage in the insuring clauses for the subject matter at hand then the analysis stops and the matter simply is not covered. A recent example of such a holding is Elysian Investment Group, LLC v. Stewart Title Guaranty Company, 105 Cal. App. 4th 315, 2002 Cal. App. LEXIS 5291 (2002).

So the Forms Committee reviewed each of the Exclusions in the 1992 Policies and, whenever it noted language that appeared to grant coverage following a phrase such as “except to the extent that,” a new Covered Risk was created to be certain that the insured would be covered for the matter.

1. Covered Risk 5

This Covered Risk in both the Owner’s and Loan Policies addresses recorded notices of violation or enforcement of various “governmental laws or regulations.” Any loss resulting from the mere existence of these laws or regulations and the effect of their violation is otherwise excluded from coverage by Exclusion 1(a).

2. Covered Risk 6

This Covered Risk in both the Owner’s and Loan Policies addresses recorded notices of any enforcement action based on the exercise of any other “governmental police power” not addressed by Covered Risk 5. Any loss resulting from the mere existence of governmental police power is excluded from coverage by Exclusion 1(b).

3. Covered Risks 7 and 8

These Covered Risks in both the Owner's and Loan Policies address recorded evidence of the exercise of "rights of eminent domain" (Covered Risk 7) and the completion of eminent domain proceedings that would be binding on the rights of a bona fide purchaser or encumbrancer (Covered Risk 8). Any loss resulting from the mere existence of the right of eminent domain is excluded from coverage by Exclusion 2.

4. Covered Risk 9(b) [Owner's] and 13(b) [Loan]

This Covered Risk addresses "preferences" resulting solely from the failure to timely record the transfer instrument (Owner's) or the security instrument (Loan) or of the recording of the instrument to impart constructive notice to and bind third parties. Any other cause of a preferential transfer challenge arising out of the insured transfer is excluded from coverage by Exclusion 4(b) (Owner's) and Exclusion 6(b) (Loan) (those exclusions being 4(b) and 7(b), respectively, of the 1992 Owner's Policy and the 1992 Loan Policy).

B. Addition of Insuring Clauses to Better Explain the Depth and Breadth of Coverage and Confirm Application to Electronic Conveyance and Mortgage Transactions

The Forms Committee has come to realize that, while expressing coverage broadly is in the best interest of the insured because it affords more room to find coverage for more types of defects that can create loss to owners of real property and their lenders, many of the industry's customers do not fully appreciate the number of potential defects that are included in the broadly worded insuring clauses. In addition, the Forms Committee desired to confirm that these policies provide coverage when transfer and mortgage instruments are created or recorded electronically pursuant to applicable electronic transactions and recording laws. So Covered Risks 2(a)(i) – (vii) in both the Owner's and Loan Policies and Covered Risk 9(a) – (g) in the Loan Policy make clear there is coverage for:

1. Forgery, fraud, undue influence, duress, incompetency, incapacity or impersonation
2. Lack of authority of any person executing on behalf of the true owner – particularly entity owners
3. Failure of proper creation, execution, witnessing, acknowledgement, notarization, or delivery of any document affecting title or of the insured mortgage
4. Failure to properly create a document by electronic means authorized by law

5. Execution under a power of attorney that is invalid because it has expired or was falsified
6. Failure of any document to be properly filed, recorded or indexed in the Public Records including failure to perform those acts by electronic means authorized by law
7. Any defect in any judicial or administrative proceeding through which title or the lien of the insured mortgage is derived

Additionally, Covered Risk 9(a) in the Owner's Policy and Covered Risk 13(a) in the Loan Policy make clear there is coverage for:

8. Creditors' rights issues in the "past chain of title" (i.e. any fraudulent or preferential transfer prior to the transaction vesting title (Owner's) or creating the lien of the insured mortgage (Loan))

C. Survey Coverage

Covered Risk 2(c) of both the Owner's and Loan Policies adds express survey coverage to address loss resulting from the following: "Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land."

Because the definition of "Land" has always been tied to the exterior boundaries of the legally described parcel, an issue arose under the 1992 and prior policy forms as to whether, in the absence of a so-called "survey exception" in Schedule B, the base policy (i.e. without an endorsement like the ALTA 9.2 for an Owner's Policy or ALTA 9 for a Loan Policy) included coverage when an improvement mostly located on the insured "Land" encroached onto adjoining property (i.e. outside the "Land" as defined in the policy). A number of courts in numerous states have addressed this issue. Some courts have held that the title insurance policy did not provide coverage against this risk. Examples include Havstad v. Fidelity Nat'l Title Ins. Co., 58 Cal. App. 4th 654 (1997), and Transamerica Title Ins. Co. v. Northwest Building Corp., 54 Wn. App. 289, 773 P. 2d 431 (1989) (but, in a subsequent Washington case, Denny's Restaurants v. Security Union Title Ins. Co., 71 Wn. App. 194 (1993), the court held that "extended coverage title insurance policy from which exclusions for off-record defects have been removed is presumed to insure against the defect previously excluded" and overruled Transamerica Title Ins. Co. v. Northwest Building Corp. "insofar as it is inconsistent"). Other courts, relying on various theories, have held that the policy did provide coverage against this risk. A very recent example is First American Title Insurance Company v. Dahmann, 2006 WI 65, 2006 Wisc. LEXIS 358 (June 7, 2006).

Covered Risk 2(c) resolves this issue. However, it is expected that there will still be transactions in which the coverage expressed by Covered Risk 2(c) is obviated by a Schedule B “survey exception” – this is particularly likely for Owner’s Policies – when the insured is unable or unwilling to satisfy the title insurer’s underwriting requirements for deleting the “survey exception” (most commonly, again in the context of Owner’s Policies, an ALTA/ACSM Survey certified to and otherwise acceptable to the title insurer).

D. “Gap” Coverage

Covered Risk 10 of the Owner’s Policy and Covered Risk 14 of the Loan Policy add express “gap” coverage for those markets or transactions in which the “settlement” or “funding” occurs prior to recording of the transfer or security instruments. This Covered Risk works in concert with the defined term “Date of Policy” (see Condition 1 (b) of each of the Owner’s and Loan Policies for this definition). The date specified as the “Date of Policy” will typically be the “settlement” or “funding” date and if the recording function occurs prior to or concurrent with that date, there will be no post-closing “gap” with which to be concerned (because the “Date of Policy” will be the same date as the recording date). However, in “table funding” jurisdictions or transactions (also sometimes referred to as “New York-style closings”) the date set forth as the “Date of Policy” will be the funding/settlement/closing (those terms being intended in this context to be different terms for the same event) date and this “gap” Covered Risk will provide the insured with the protection desired for the so-called “gap risk” (again, assuming no Schedule B exception to obviate the coverage due, most likely, to the inability or unwillingness of one of the parties to satisfy the title insurer’s underwriting requirements for providing this coverage – e.g. a “Gap Affidavit/Indemnity” from a financially viable party).

A new exclusion has been added, Exclusion 5 of the Owner’s Policy and Exclusion 7 of the Loan Policy, solely because of the added coverage of Covered Risk 10/14 to make clear that the title insurer is not liable for real estate tax and assessment liens that are created or attach in the “gap,” if any, between the “Date of Policy” and the date when the transfer or security instruments are recorded (if there is no post-closing “gap” then there is no risk to which this Exclusion relates anyway). Even in those jurisdictions or transactions in which this “gap” exists, it is not expected that this Exclusion 5/7 will pose any added difficulty to the parties because real estate taxes and assessments are typically pro-rated for the year of the closing up to the funding/settlement/closing date and (1) the buyer (the insured in an Owner’s Policy) would be responsible for any of those taxes and assessments after that date so this is the buyer’s risk in any case, and (2) the lender is either collecting reserves for these taxes and assessments or is relying on the buyer’s creditworthiness to pay the taxes and assessments for which the buyer is responsible.

E. Mechanics' Lien Coverage

Covered Risk 11(a) of the Loan Policy addresses the coverage afforded an insured lender as to the priority of the lien of its mortgage in relationship to any mechanics' and materialmen's liens that may arise under applicable state law as a result of construction work on or related to the insured land. The language of Covered Risk 11(a) better expresses this coverage than that of Insuring Clause 7 of the 1992 ALTA Loan Policy because it makes clear the priority coverage extends to "each and every advance of proceeds of the loan secured by the insured mortgage" when the construction work is either "contracted for or commenced on or before Date of Policy" or "contracted for, commenced or continued after Date of Policy" if the subject loan is financing the construction and the lender has either advanced funds or is obligated to advance funds on the Date of Policy.

There is no counterpart exclusion in the 2006 Loan Policy to Exclusion 6 of the 1992 ALTA Loan Policy. The decision to eliminate this exclusion is based on the Forms Committee's view that it is unnecessary because (1) the Covered Risk speaks for itself as to the coverage intended, and (2) the post-policy exclusion included at Exclusion 3(d) of the 2006 Loan Policy serves to make clear that no coverage is provided by the base policy for construction both contracted for and commenced post-policy and not financed by the loan secured by the insured mortgage (i.e. where the loan is some form of "permanent financing" and the construction takes place at some point in the future).

Consistent with present practice in certain jurisdictions or transactions, Covered Risk 11(a) may be partially or completely obviated by a Schedule B "mechanics' lien" exception either or both because of (1) the inability or unwillingness of the parties to satisfy the title insurer's underwriting requirements for deleting the Schedule B exception, or (2) applicable state law governing mechanics' liens renders the risk of deleting the Schedule B exception unacceptable to the insurer. Often in these situations it is possible to obtain mechanics' lien coverage by endorsement on a disbursement by disbursement basis with the lender conditioning each disbursement on the title insurer's issuance of the endorsement and the title insurer conditioning each endorsement on its "date down" search and exam confirming no recorded mechanics' liens subsequent to the Date of Policy or the date of the last endorsement and its receipt of and satisfaction with lien releases from all contractors, subcontractors and material suppliers through the most recent previous disbursement.

F. New or Expanded Definitions

1. Amount of Insurance

Condition 1(a) of each of the Owner's and Loan Policies defines this term with reference to Schedule A. In the 1992 and earlier policy forms, there was no definition of this term in the "Definition of Terms" section but, rather, it was generally thought that whenever the term "Amount of Insurance" appeared in the policies (with each of the "A" in "Amount" and "I" in "Insurance" capitalized) it was referring to the

dollar amount set forth next to that term in Schedule A. In a number of places in the 1992 and earlier policy forms, the term “amount of insurance” (small “a” and “i”) was used because, due to various provisions of the policy, the dollar amount set forth in Schedule A may have been reduced with the result that the insured had a lesser amount then remaining to pay future claims. This was confusing and even led some readers of ALTA policies to question whether the term “amount of insurance” was a typographical error. Now the fact that the dollar amount outstanding and available to pay claims may be higher or lower than the amount stated in Schedule A is handled “definitionally” and the same defined term “Amount of Insurance” is used consistently throughout the policies. As will be observed by reading this definition, there is one section in the Conditions that can lead to an increase and one section (Loan Policy) or two sections (Owner’s Policy) in the Conditions that can lead to a decrease in the dollar amount stated in Schedule A.

2. Date of Policy

Condition 1(b) of each of the Owner’s and Loan Policies defines this term with reference to Schedule A and was briefly discussed above in the context of discussing the “gap” coverage added by Covered Risk 10 (Owner’s)/14 (Loan).

3. Entity

Condition 1(c) of each of the Owner’s and Loan Policies defines this term consistent with its most common use. The term “Entity” is used in the policies in very few places, mostly in the definition of “Insured” in Condition 1(d) (Owner’s)/1(e) (Loan).

4. Indebtedness

Condition 1(d) of the Loan Policy defines this term. It is quite expansive and results in a very significant improvement over the 1992 Loan Policy, as well as the 1970 form Loan Policy (and the version of that form as it was amended in 1984), by including post-policy principal advances (something expressly written out of both the 1992 Loan Policy by Condition & Stipulation 8(d)(i) and the 1970 form Loan Policy by Condition & Stipulation 8(b)) and “prepayment premiums, exit fees and other similar fees or penalties allowed by law” (and, as indicated in the lead-in sentence to this definition, secured by the Insured Mortgage). The term “Indebtedness” is used in the measure of loss provision (now Condition 8 of the Loan Policy) among other places. It should be noted regarding post-policy principal advances, except where the insured mortgage secures a construction loan and the post-policy advances are construction loan advances made pursuant to a construction loan agreement, that the 2006 Loan Policy does not insure against invalidity, unenforceability or lack of priority of the lien of the insured mortgage as security for the post-policy principal advances. To achieve that desired result would require the issuance of an endorsement such as one of the ALTA 14-series (Future Advance) Endorsements. However, with the exception of challenges to the validity, enforceability or priority of the insured mortgage lien as security for the

advances, the insured lender's measure of loss now includes these post-policy principal advances.

5. Insured

Condition 1(d) of the Owner's Policy and Condition 1(e) of the Loan Policy define this term much more expansively than the counterpart provisions in the 1992 Owner's and Loan Policies to expressly include the following:

- (a) The party who has "control" of a "transferable record" where the Indebtedness is evidenced by a "transferable record" (as the quoted terms are defined by applicable electronic transactions law) [Loan Policy].
- (b) Successors to the named insured by dissolution, merger, consolidation, distribution or reorganization [Owner's and Loan].
- (c) Successors to the named insured by conversion to any different form of entity [Owner's and Loan].
- (d) Certain voluntary conveyances by the named insured "without actual valuable consideration" including:
 - (i) Where the equity interests of the grantee are wholly owned by the named insured ("subsidiary transfer") [Owner's and Loan];
 - (ii) Where the grantee wholly owns the named insured ("parent transfer") [Owner's and Loan];
 - (iii) Where the grantee is wholly owned by an "affiliate" of the named insured and that affiliate and the named insured share a common "parent" ("affiliate transfer") [Owner's and Loan]; and
 - (iv) Where the grantee is the trustee or beneficiary of a trust established by the named insured for estate planning purposes [Owner's].

6. Title

Condition 1(j) of the Owner's Policy and Condition 1(l) of the Loan Policy define this term with reference to Schedule A to mean "the estate or interest described in Schedule A." In turn, the estate or interest is "described" in paragraph 2 of Schedule A in each of the Owner's and Loan Policies. Although this does not result in any substantive change from the 1992 Policies it eliminates multiple uses throughout the policies of phrases like "estate or interest," "insured estate or interest, and "estate or interest in the land."

7. Unmarketable Title

Condition 1(k) of the Owner's Policy and Condition 1(m) of the Loan Policy defines this term. It is more expansive than its counterpart in the 1992 Policies because it expressly includes lessee and lender interests. Also the phrase "not excluded or excepted from coverage" that appears in the definition of "unmarketability of title" in the 1992 Policies is deleted in the 2006 Policies.

G. Proof of Loss

Condition 4 of both the Owner's and Loan Policies eliminates the requirement for a "sworn" proof of loss within 90 days after the Insured determines the facts giving rise to loss that is found in Section 5 of the Conditions & Stipulations of each of the 1992 Policies. The Forms Committee believes that the title insurer is most often able to effectively quantify the insured's loss in a claim situation without the insured providing a "proof of loss" so elected to substitute for the automatic requirement a right in the insurer to request that the insured furnish a signed (but not "sworn to") proof of loss and to condition any claim payment on the insured's positive response.

H. Elimination of Coinsurance Provision

Condition & Stipulation 7(b) of the 1992 Owner's Policy has been eliminated in the 2006 Owner's Policy. This provision had the effect of making the insured owner a coinsurer of the risk of partial loss under either one of two circumstances: (1) When the owner purchased insurance in an amount less than 80% of the then value of or full consideration paid for the land; and (2) When the insured constructed improvements post-policy that increased the value of the land by 20% or more over the amount of insurance purchased. The first of these circumstances rarely arose because insurers generally resist selling an owner's policy for less than the full purchase price of the subject real estate and, from a regulatory perspective, the insurance regulations in most states contain minimum "Amount of Insurance" standards requiring each policy to be issued for the then full value of the estate or interest being insured or, if less, the full purchase price being paid or the full loan amount being made. It was the second of these circumstances that proved more problematic to insured owners. Elimination of this coinsurance provision enhances the value of the 2006 Owner's Policy.

I. Elimination of Apportionment Provision

Condition & Stipulation 8 of the 1992 Owner's Policy has been eliminated in the 2006 Owner's Policy. A similar provision is also contained in the 1970 form Owner's Policy (and in the version of that form as it was amended in 1984) at Condition & Stipulation 10. This provision applied when (1) an owner's policy included two or more parcels of real estate that were not used as a single site, (2) the insurer and the insured had not agreed on any per parcel value and included that agreement in the policy, and (3) a covered loss occurred that affected one or more but not all of the parcels. In this circumstance, the "Apportionment" provision had the effect of limiting the insured's maximum recovery for the loss incurred on the parcel or parcels affected by the adverse matter by prorating the Amount of Insurance based on the value of each parcel as of the

Date of Policy. Elimination of this apportionment provision enhances the value of the 2006 Owner's Policy in the context of multi-site transactions included within a single policy. The result will now be the same as if the insured obtained a separate Owner's Policy on each separate site together with a "tie-in" or "aggregation" endorsement. The insured will be able to apply the full Amount of Insurance to any separate parcel on which a covered loss occurs and recover actual loss up to the lesser of the Amount of Insurance or the then full value of the particular parcel affected by the covered defect.

J. Special Provisions Re Exercise of Insurer's Right to Cure Defects

Two new provisions have been added to the 2006 Policies that will benefit the insured when the insurer elects to pursue its rights, now expressed in Condition 5 entitled "Defense and Prosecution of Actions" of each of the 2006 Owner's and Loan Policies, to take action to eliminate a defect insured against by the policy but is unsuccessful in that effort. Each of these provisions will serve to make more compensation available to the insured for the loss caused by an insured defect when the insurer is unable to defeat the adverse claim than would have been available under the 1992 or the 1970 form policies.

1. Automatic Increase in Amount of Insurance

Condition 8(b)(i) of each of the 2006 Owner's and Loan Policies provides under this circumstance an automatic increase in the Amount of Insurance by 10%.

2. Right of Insured to Choose Timing of Loss Determination

Condition 8(b)(ii) of each of the 2006 Owner's and Loan Policies grants to the insured the right to elect when in point of time to have the loss determined between either (a) the date when the insured made the claim on the insurer, or (b) the date when the claim is settled and paid. In a real estate market in which property values are depreciating, the insured will presumably elect the first of these dates for determining the amount of loss. In a real estate market in which property values are appreciating, it will most likely be in the insured's interest to elect the second of these dates for determining the amount of loss.

K. Elimination of "Subsequent Principal Indebtedness" Provision from Loan Policy

Condition & Stipulation 8(d) of the 1992 Loan Policy confirms that the insurer has no liability under the base policy for "any indebtedness created subsequent to Date of Policy" with the exception of certain (1) protective advances and (2) construction loan advances. A similar provision is also contained in the 1970 form Loan Policy (and in the version of that form as it was amended in 1984) at Condition & Stipulation 8(b). Elimination of this provision enhances the value of the 2006 Loan Policy, particularly when understood in context with the new definition of "Indebtedness" discussed at section IV.F.4. above.

L. Elimination of “Last Dollar” Issue from Loan Policy

Condition & Stipulation 9(b) of the 1992 Loan Policy reads, in pertinent part, as follows: “Payment in part by any person of the principal of the indebtedness, or any other obligation secured by the insured mortgage, or any voluntary partial satisfaction or release of the insured mortgage, to the extent of the payment, satisfaction or release, shall reduce the amount of insurance pro tanto.” This provision has proven problematic to insured lenders in the context of mixed-collateral, multi-site and partially-secured (or “undersecured”) loan transactions. In each of these types of loan transactions, the loan amount is likely to be greater than the Amount of Insurance because there is collateral for the loan other than the particular real property described in the subject Loan Policy (the other collateral could be either or both personal property or other parcels of real property) or the loan is simply undersecured (presumably because of the credit strength of the borrower). As a result of this provision, a lender could find itself without any remaining title insurance once the loan principal is reduced by an amount equal to the Amount of Insurance stated in the subject Loan Policy. To guard against this result, a form of endorsement was created that became known as the “Last Dollar Endorsement.” By eliminating the problematic language from Condition 10 of the 2006 Loan Policy, insured lenders requiring this form of policy will no longer need a “Last Dollar Endorsement” in any title insured loan transaction. Under the 2006 Loan Policy only claim payments (other than those for defense costs) serve to reduce the Amount of Insurance and then, if the lender has not acquired title to the insured land by foreclosure or deed-in-lieu-of foreclosure, only to the extent that the claim payment reduces the amount owed on the subject loan.

M. Elimination of “Liability Noncumulative” Provision from Loan Policy

Condition & Stipulation 10 of the 1992 Loan Policy entitled “Liability Noncumulative” has proven problematic in certain loan transactions involving a “senior” and one or more “junior” mortgages that are each insured under loan policies issued by the same insurer. A similar provision is also contained in the 1970 form Loan Policy (and in the version of that form as it was amended in 1984) at Condition & Stipulation 9. In these transactions it is most common that the loan secured by the “senior” mortgage is greater than the loan secured by the “junior” mortgage. As a result of this provision, the lender making the loan secured by the “junior” mortgage could find itself without any remaining title insurance if the insurer paid a claim under the loan policy it issued to insure the lien of the “senior” mortgage and the amount of the payment was at least equal to the Amount of Insurance under the “junior” lender’s loan policy. Elimination of this provision enhances the value of the 2006 Loan Policy.

N. Elimination of Requirement to Produce Policy as Condition to Payment of Loss

Condition & Stipulation 12(a) of the 1992 Owner’s Policy and Condition & Stipulation 11(a) of the 1992 Loan Policy obligated the insured as a condition to the insurer’s payment obligation to produce for the insurer either the policy itself or proof

satisfactory to the insurer that the policy could not be produced because it had been lost or destroyed. A similar provision is also contained in the 1970 form Owner's and Loan Policies (and in the versions of those forms as they were amended in 1984) at Condition & Stipulation 8 and 8(b), respectively. This provision has been eliminated in each of the 2006 Owner's and Loan Policies because it was thought by the Forms Committee to be an unnecessary imposition on insureds.

O. Arbitration

Each of the 2006 Owner's and Loan Policies include a provision for arbitration of disputes between the insurer and the insured. This provision is contained in Condition 14 of the 2006 Owner's Policy and Condition 13 of the 2006 Loan Policy (the 1992 Owner's and Loan Policies also included an arbitration provision in the same section number of the Conditions & Stipulations section of those forms). This provision in the 2006 Policies has been revised to (1) increase from \$1 million to \$2 million the Amount of Insurance threshold up to which arbitration can be invoked unilaterally by either the insured or the insurer, (2) provide that the applicable arbitration rules are those of the ALTA (posted to the ALTA website, www.alta.org), and (3) confirm that the arbitration is limited to the parties to the insurance contract. Because arbitration can only be invoked unilaterally when the Amount of Insurance is \$2 million or less, the provision should not be a concern in the context of most commercial transactions. The Forms Committee expects that some insureds will continue to request deletion of the arbitration provision by endorsement as has been their practice with the 1992 Policies and, where regulatorily permissible, most insurers are likely to agree to the request in an effort to tailor the insurance policy to the needs of the customer.

P. Incorporation Provision Relating to Endorsements

Condition 15(d) of the 2006 Owner's Policy and Condition 14(d) of the 2006 Loan Policy is a new policy provision that mirrors the language included as the final paragraph of endorsements and is called variously the "boilerplate provision" or the "incorporation provision." It makes clear that every endorsement to the policy, regardless of when issued, is a part of the policy and is subject to the policy's terms and provisions "[e]xcept as the endorsement expressly states." So, to the extent of the coverage expressed in an endorsement, the endorsement will control over any inconsistent provision in the policy but, otherwise, all of the terms and provisions of the policy apply to the coverage added (or, although not as common, subtracted) by the endorsement.

Q. Choice of Law; Forum

Condition 17 of the 2006 Owner's Policy and Condition 16 of the 2006 Loan Policy are new. The Forms Committee determined that each of a "Choice of Law" and a "Choice of Forum" provision would be beneficial at this time because of the increasing number of "cross-border" transactions in which citizens of another country are buying or making loans secured by land in one or more states of the United States. The "Choice of

Law” provision confirms that the law that applies is the law of the jurisdiction where the land is located both in the context of (1) claims against the title to the land or the lien of the insured mortgage, and (2) disputes between the insured and the insurer in which it becomes necessary to interpret and enforce the terms of the insurance contract. The “Choice of Forum” provision confirms that any litigation or other proceeding brought by the insured against the insurer must be brought in a state or federal court within the United States or its territories having appropriate jurisdiction.

R. Cross-Reference to “Notices” Provision

A provision has been added to the top of the first page of each of the 2006 Owner’s and Loan Policies to guide the insured to the provision of the policy that stipulates where notices of claim or other notices are to be given to the insurer. The “Notices” provision is Condition 18 of the 2006 Owner’s Policy and Condition 17 of the 2006 Loan Policy.

S. Schedule A

Several new provisions have been added to Schedule A in each of the 2006 Owner’s and Loan Policies. In each policy form both (1) the name and address of the title insurance company that is the insurer under the policy and (2) the insured property address reference have been included. In the case of the former, the Forms Committee determined that adding the name and address of the insurer to Schedule A would be beneficial to both the insured and the insurer in instances when the Schedules have been separated from the “jacket” portion of the policy so if a claim arises each party would have the ability to know the identity of the insurer and the place where the notice of claim would need to be sent. In the case of the latter, there may be instances when the “land” covered by the policy does not have a property address, most likely in the context of vacant land transactions, in which event this detail would likely not appear in Schedule A or, alternatively, the word “none” or “not applicable” might be inserted.

The 2006 Loan Policy also adds to Schedule A as optional paragraph 6 a “check the box” list of the most common and frequently requested ALTA Endorsement forms. For those insurers electing to adopt this optional provision as part of their filed and approved 2006 Loan Policy form, the following endorsements will be incorporated by reference into the policy by simply checking the appropriate box:

- ALTA Endorsement 4-06 (Condominium)
- ALTA Endorsement 4.1-04
- ALTA Endorsement 5-06 (Planned Unit Development)
- ALTA Endorsement 5.1-06
- ALTA Endorsement 6-06 (Variable Rate)
- ALTA Endorsement 6.2-06 (Variable Rate-Negative Amortization)
- ALTA Endorsement 8.1-06 (Environmental Protection Lien) – Applies only to improved residential and includes insertion for applicable state “superlien” statute, if any

- ALTA Endorsement 9-06 (Restriction, Encroachments, Minerals)
- ALTA Endorsement 13.1-06 (Leasehold Loan)
- ALTA Endorsement 14-06 (Future Advance – Priority)
- ALTA Endorsement 14.1-06 (Future Advance – Knowledge)
- ALTA Endorsement 14.3-06 (Future Advance – Reverse Mortgage)
- ALTA Endorsement 22-06 (Location) – Specifies the type of improvement and confirms its street address is as shown in Schedule A above.

T. 2006 ALTA Short Form Residential Loan Policy (One-to-Four Family)

The Forms Committee has continued its practice of providing, for the residential mortgage origination market, a “short form” version of each of the “long form” ALTA Loan Policy forms. Because the 2006 ALTA Short Form Residential Loan Policy (“2006 Short Form”) incorporates by reference “THE TERMS, EXCLUSIONS AND CONDITIONS SET FORTH IN THE AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (6-17-06)” (the quoted phrase being capitalized because that is the way it appears in the 2006 Short Form), this form is the 2006 ALTA Loan Policy. Therefore, a lender that is insured using the 2006 Short Form receives all of the same coverage as if the “long form” had been issued but without all the extra paper.

1. Endorsement Incorporation

Like its predecessor short form loan policies, the 2006 Short Form incorporates a number of the most commonly issued (for residential loan transactions) ALTA Endorsement forms. Some endorsements are automatically incorporated while others are incorporated by a “check-the-box” format. All of the endorsement forms being incorporated are the “-06” versions that have been drafted to work in conjunction with the 2006 Loan Policy. Several of those endorsements incorporated by the “check-the-box” format are new ALTA forms that are discussed in more detail in Section V below.

(a) Automatically Incorporated Endorsements

- (i) ALTA Endorsement 4.1-06 (Condominium);
- (ii) ALTA Endorsement 5.1-06 (Planned Unit Development);
- (iii) ALTA Endorsement 6-06 (Variable Rate);
- (iv) ALTA Endorsement 6.2-06 (Variable Rate-Negative Amortization);
- (v) ALTA Endorsement 7-06 (Manufactured Housing);
- (vi) ALTA Endorsement 8.1-06 (Environmental Protection Lien), specifying the state statute referred to in subparagraph (b) of this Endorsement, if any.

(vii) ALTA Endorsement 9-06 (Restrictions, Encroachments, Minerals).

(b) “Check-the-box” Incorporated Endorsements

- (i) ALTA Endorsement 4-06 (Condominium);
- (ii) ALTA Endorsement 5-06 (Planned Unit Development);
- (iii) ALTA Endorsement 7.1-06 (Manufactured Housing-Conversion; Loan)
- (iv) ALTA Endorsement 14-06 (Future Advance - Priority);
- (v) ALTA Endorsement 14.1-06 (Future Advance – Knowledge);
- (vi) ALTA Endorsement 14.3-06 (Future Advance – Reverse Mortgage);
- (vii)** ALTA Endorsement 22-06 (Location), specifying that the type of improvement is a one-to-four family residential structure and confirming that the street address is as set forth above in Schedule A.

2. Changes to Schedule B

Several changes have been made to Schedule B of the 2006 Short Form, entitled “Exceptions from Coverage and Affirmative Insurances,” but each of these changes are the result of changes made to the “long form” 2006 Loan Policy when compared to the 1992 Loan Policy.

(a) Deletion of Paragraph 1 – Post-Policy Taxes and Special Assessments

This paragraph in the existing ALTA Short Form Residential Loan Policy (Revised 10/21/00) (“Existing Short Form”) reads: “Those taxes and special assessments which become due and payable subsequent to Date of Policy.” For the 2006 Short Form, the Forms Committee determined that this exception was unnecessary. Further, because the “long form” 2006 Loan Policy expressly includes in Covered Risk 11(b) coverage for the lack of priority of the insured mortgage lien “over the lien of any assessments for street improvements under construction or completed at Date of Policy” (this is the ALTA Endorsement Form 1 coverage built into the loan policy), it was thought that deletion of this exception would avoid having to add language in the exception confirming that the exception was not intended to limit the coverage provided in Covered Risk 11(b).

(b) Deletion of Paragraph 5 – Survey Coverage

This paragraph in the Existing Short Form reads: “This policy insures against loss or damage by reason of any violation, variation, encroachment or adverse circumstance affecting title that would have been disclosed by an accurate survey. The term “encroachment” includes encroachments of existing improvements located on the land onto adjoining land, and encroachments onto the land of existing improvements located on adjoining land.” For the 2006 Short Form, the Forms Committee determined that this language was unnecessary because the “long form” 2006 Loan Policy itself expressly includes this coverage in Covered Risk 2(c) so, by virtue of the incorporation of the “long form” into the 2006 Short Form, this coverage is automatically included in the 2006 Short Form.

V. NEW ENDORSEMENT FORMS

In addition to its work revising the existing ALTA Endorsement forms so they will work with the 2006 Owner’s and Loan Policies, as applicable, the Forms Committee drafted a number of new endorsements that were also adopted on June 17, 2006. This section will briefly discuss each of these new endorsement forms. The language of the substantive coverage provisions of each endorsement will be set forth in full (excluding the “boilerplate” or “incorporation” provision that appears in every endorsement as the last paragraph and serves to tie the endorsement to the policy to which it relates).

A. Manufactured Housing

There are two new endorsements, one each for the 2006 Loan and Owner’s Policies, designed for transactions involving a manufactured housing unit that the insurer is satisfied under applicable law constitutes “real property” and otherwise satisfies the insurer’s underwriting requirements for providing this coverage.

1. ALTA 7.1-06 (Manufactured Housing Unit-Conversion; Loan)

The version of this endorsement designed for the 2006 Loan Policy reads in pertinent part:

1. The term “Land” as defined in this policy includes the manufactured housing unit located on the Land 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.
 - (b) The manufactured housing unit located on the Land is not real property under the law of the state where the Land 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 in a single foreclosure procedure.”

2. ALTA 7.2-06 (Manufactured Housing Unit-Conversion; Owner’s)

The version of this endorsement designed for the 2006 Owner’s Policy reads in pertinent part:

- “1. The term “Land” as defined in this policy includes the manufactured housing unit located on the Land 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.
 - (b) The manufactured housing unit located on the Land is not real property under the law of the state where the Land is located.
 - (c) The Insured is not the owner of the manufactured housing unit.
 - (d) Any lien is attached to the manufactured housing unit as personal property, including
 - (i) a federal, state or other governmental tax lien,
 - (ii) UCC security interest,
 - (iii) a motor vehicular lien, or
 - (iv) other personal property lien.”

B. Restrictions, Encroachments, Minerals

There are three new ALTA Endorsement 9-series endorsements, one for the 2006 Loan Policy and two for the 2006 Owner’s Policy (one of those for “unimproved land” and the second for “improved land”), that each include an additional insuring provision to afford coverage in appropriate circumstances for damage to “future improvements” resulting from the future exercise of any right of surface entry to extract or develop minerals that have been severed from the underlying title and are, accordingly, excepted from the legal description or from the policy’s coverage by an exception in Schedule B. Because each of these endorsements reads in all other respects like the ALTA Endorsement 9 (Loan Policy), 9.1 (Owner’s Policy-Unimproved Land) and 9.2 (Owner’s Policy-Improved Land), only the added insuring provision will be set forth below.

1. ALTA Endorsement 9.3-06 (Restrictions, Encroachments, Minerals-Loan Policy-Future Improvements Re Minerals Extraction)

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

2. ALTA Endorsement 9.4-06 (Restrictions, Encroachments, Minerals-Owner’s Policy-Unimproved Land-Future Improvements Re Minerals Extraction)

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

3. ALTA Endorsement 9.5-06 (Restrictions, Encroachments, Minerals-Owner’s Policy-Improved Land-Future Improvements Re Minerals Extraction)

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

C. Location

There are two new endorsements, each of which can be used with both the 2006 Owner’s and Loan Policies, designed to address the type of improvement that is located on the land and the applicable street address by which that improvement is known. The second of these endorsements adds coverage related to a map that is attached to the policy for those areas of the country or transactions in which it is feasible and customary for the title insurer to attach a “location map” to the policy.

1. ALTA Endorsement 22-06 (Location)

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

2. ALTA Endorsement 22.1-06 (Location and Map)

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

VI. WHAT’S NEXT?

With the adoption of the new forms discussed in this paper on June 17, 2006, the work of the title insurance industry’s underwriters to file and, where necessary, obtain the approval of the forms by each state’s regulatory authority (typically, the Department of Insurance) began. This process will likely take the remainder of 2006 to complete and there may be a few states in which the process continues into 2007. Where “filing,”

“filing and approval,” or “promulgation” is required by applicable state law, each underwriter must complete that step before these forms will be available for issuance in that state. It is conceivable that one or more states will require state-specific modifications to the ALTA-adopted forms so that the forms ultimately available in those states may be slightly different than the ALTA-adopted versions. Experience suggests that any state-specific modifications will be minor so one can expect that the substance of each of the proposed 2006 ALTA Owner’s and Loan Policies, as well as the other proposed 2006 ALTA forms discussed above, will survive regulatory review and ultimately be available to the industry’s customer groups throughout the country, from each of the industry’s licensed title insurance underwriters, by sometime in 2007.

The Forms Committee’s work will not end with the adoption of the proposed 2006 ALTA Owner’s and Loan Policies and related forms. It is anticipated that the Forms Committee will next tackle a comprehensive review of each of the residential-specific policy forms that were created and adopted in the past 8 years, including the ALTA Homeowner’s Policy of Title Insurance (10/17/98; 10/22/03), the ALTA Expanded Coverage Residential Loan Policy (10/13/01), and the ALTA Short Form Expanded Coverage Residential Loan Policy (10/22/03), to bring these forms current with the applicable insured-oriented changes that have resulted in the 2006 ALTA Owner’s and Loan Policies. In addition, the Forms Committee is presently working on another new series of ALTA Endorsement forms (including two alternative forms for “coinsurance” transactions) as part of its ongoing effort to modernize and standardize the additional coverage available to the industry’s customers by endorsement, the primary vehicle to facilitate transaction-specific tailoring of standard or “base” title insurance policies.

VII. CONCLUSION

The 1992 ALTA Owner’s and Loan Policies, as the 1970 form policies before them, have served the title insurance industry and its customer groups reasonably well for decades. But the Forms Committee’s combined experience and the input received from the industry’s customer groups since the last major policy rewrite in 1986 led to the creation and adoption of a set of standard or “base” title insurance policy forms that represent a significant step forward – the 2006 ALTA Owner’s and Loan Policies.

It is truly an honor serving the title insurance industry as a member of the ALTA Forms Committee and to work collaboratively with my fellow Forms Committee members to deliver products that improve this industry’s ability to serve its customers’ title insurance needs. This work has been and will continue to be a highlight of my career and I thank each of my fellow Forms Committee members for their tireless and dedicated efforts throughout this process.

Exhibit “A”

Summary of Changes to ALTA Owner’s Policy as of Final Draft of 2006 ALTA Owner’s Policy – Adoption Date: June 17, 2006

1. **Addressed** the “exclusion to an exclusion” issue created in the 1986/1987 Owner’s Policy (today known as the “1992” ALTA Owner’s Policy):
 - “Governmental regulation” – Exclusion 1(a) [**New Covered Risk 5**];
 - “Governmental police power” – Exclusion 1(b) [**New Covered Risk 6**];
 - “Rights of Eminent Domain” – Exclusion 2 [**New Covered Risks 7 + 8**];
 - “Preferences” – Exclusion 4(b) [**New Covered Risk 9(b)**].

2. **Added** Insuring Clauses (now known as “Covered Risks”) to expressly address:
 - Forgery, fraud, undue influence, duress, incompetency, incapacity or impersonation [**New Covered Risks 2(a)(i)**].
 - Lack of authority of any person executing on behalf of the true owner – particularly entity owners [**New Covered Risks 2(a)(ii)**].
 - Failure of proper creation, execution, witnessing, acknowledgement, notarization, or delivery of any document affecting title or of the insured mortgage [**New Covered Risks 2(a)(iii)**].
 - Failure to properly create a document by electronic means authorized by law [**New Covered Risks 2(a)(iv)**].
 - Execution under a power of attorney that is invalid because it has expired or was falsified [**New Covered Risks 2(a)(v)**].
 - Failure of documents to be properly filed, recorded or indexed in the Public Records including failure to perform those acts by electronic means authorized by law [**New Covered Risks 2(a)(vi)**].
 - Any defect in any judicial or administrative proceeding through which title or the lien of the insured mortgage is derived [**New Covered Risks 2(a)(vii)**].
 - Survey coverage – Any encroachment, encumbrance, violation, variation or adverse circumstance affecting title that would have been disclosed by a complete and accurate land survey [**New Covered Risk 2(c)**]. “Encroachment” includes existing improvements that encroach from the insured land onto adjoining land and those located on adjoining land that encroach onto the insured land.

- Creditors' Rights in the "past chain of title" (i.e. any fraudulent or preferential transfer prior to the transaction vesting Title in the insured) [New Covered Risk 9(a)].
 - "Gap" Coverage – [New Covered Risk 10].
3. **Defined** "Amount of Insurance" [New Condition 1(a)].
 4. **Defined** "Date of Policy" to be the specified date in Schedule A – Relates to new Covered Risk 10 providing "Gap" Coverage [New Condition 1(b)].
 5. **Defined** "Entity" [New Condition 1(c)].
 6. **Expanded** definition of "Insured" to include [New Condition 1(d)]:
 - Successors by dissolution, merger, consolidation, distribution or reorganization [New Condition 1(d)(i)(B)];
 - Successors by conversion to any different form of entity [New Condition 1(d)(i)(C)];
 - Certain voluntary conveyances "without actual valuable consideration" [New Condition 1(d)(i)(D)]:
 - Where the equity interests of the grantee are wholly owned by the Insured ("subsidiary transfer");
 - Where the grantee wholly owns the Insured ("parent transfer");
 - Where the grantee is wholly owned by an "affiliate" of the Insured and that affiliate and the Insured share a common "parent" ("affiliate transfer");
 - Where the grantee is the trustee or beneficiary of a trust established by the named Insured for estate planning purposes.
 7. **Expanded** definition of "Unmarketable Title" to (a) delete phrase "not excluded or excepted from coverage" and (b) expressly include lessee and lender interests [New Condition 1(k)].
 8. **Eliminated** *requirement* for "sworn" proof of loss within 90 days after Insured determines facts giving rise to loss – former Section 5 of Conditions & Stipulations [New Condition 4].
 9. **Eliminated** "Coinsurance" Provision – Section 7(b) of the Conditions & Stipulations of 1992 ALTA Owner's Policy.

10. **Eliminated** “Apportionment” Provision – Section 8 of the Conditions & Stipulations of 1992 ALTA Owner’s Policy.
11. **Added** automatic increase in Amount of Insurance by 10% if the insurer pursues its rights under Section 5 of the Conditions to litigate or otherwise seek to eliminate the defect but is unsuccessful [**New Condition 8(b)(i)**].
12. **Added** right of Insured to choose when to have the loss determined as between (a) the date the claim is made, or (b) the date the claim is settled and paid [**New Condition 8(b)(ii)**].
13. **Eliminated** requirement for production of policy as condition to payment of loss [**Deletion of Section 12(a) of the Conditions & Stipulations of 1992 ALTA Owner’s Policy**].
14. **Revised** “Arbitration” Clause [**Revised Condition 14**]:
 - Increased threshold from \$1 million to \$2 million in which arbitration can be unilaterally invoked by either the Insured or the Company;
 - Arbitration limited to the parties to the Policy only (i.e. no “class action” arbitrations – “no joinder or consolidation with claims or controversies of other persons”);
 - Reference to the Title Insurance Arbitration Rules of the American Land Title Association – Posted to the ALTA website (www.alta.org);
 - National Arbitration Forum (“NAF”), an independent provider of dispute resolution services, to implement a dispute resolution system for the title insurance industry and administer title insurance arbitrations pursuant to the Title Insurance Arbitration Rules as a supplement to NAF’s Code of Procedure.
15. **Added** “Choice of Law; Forum” Provision [**New Condition 17**].
16. **Added** “endorsement incorporation” language [**New Condition 15(d)**].
17. **Added** cross-reference at top of Page 1 to “Notices” – Section 18 of Conditions.
18. **Added** the following new “Schedule A” provisions: (a) Name and Address of Title Insurer; and (b) Property Address Reference.

Exhibit “B”

Summary of Changes to ALTA Loan Policy as of Final Draft of 2006 ALTA Loan Policy – Adoption Date: June 17, 2006

1. **Addressed** the “exclusion to an exclusion” issue created in the 1986/1987 Loan Policy (today known as the “1992” ALTA Loan Policy):
 - “Governmental regulation” – Exclusion 1(a) [**New Covered Risk 5**];
 - “Governmental police power” – Exclusion 1(b) [**New Covered Risk 6**];
 - “Rights of Eminent Domain” – Exclusion 2 [**New Covered Risks 7 + 8**];
 - “Preferences” – Exclusion 7(b) [**New Covered Risk 13(b)**].

2. **Added** Insuring Clauses (now known as “Covered Risks”) to expressly address:
 - Forgery, fraud, undue influence, duress, incompetency, incapacity or impersonation [**New Covered Risks 2(a)(i) and 9(a)**].
 - Lack of authority of any person executing on behalf of the true owner – particularly entity owners [**New Covered Risks (2)(a)(ii) and 9(b)**].
 - Failure of proper creation, execution, witnessing, acknowledgement, notarization, or delivery of any document affecting title or of the insured mortgage [**New Covered Risks 2(a)(iii) and 9(c)**].
 - Failure to properly create a document by electronic means authorized by law [**New Covered Risks 2(a)(iv) and 9(d)**].
 - Execution under a power of attorney that is invalid because it has expired or was falsified [**New Covered Risks 2(a)(v) and 9(e)**].
 - Failure of documents to be properly filed, recorded or indexed in the Public Records including failure to perform those acts by electronic means authorized by law [**New Covered Risks 2(a)(vi) and 9(f)**].
 - Any defect in any judicial or administrative proceeding through which title or the lien of the insured mortgage is derived [**New Covered Risks 2(a)(vii) and 9(g)**].
 - Survey coverage – Any encroachment, encumbrance, violation, variation or adverse circumstance affecting title that would have been disclosed by a complete and accurate land survey [**New Covered Risk 2(c)**]. “Encroachment” includes existing improvements that encroach from the insured land onto adjoining land and those located on adjoining land that encroach onto the insured land.

- Creditors' Rights in the "past chain of title" (i.e. any fraudulent or preferential transfer prior to the transaction creating the lien of the insured mortgage) [**New Covered Risk 13(a)**].
 - "Gap" Coverage – [**New Covered Risk 14**].
3. **Eliminated** former Exclusion 6 of 1992 ALTA Loan Policy addressing mechanics' liens arising from post-policy work not financed by the loan secured by the insured mortgage.
 4. **Added** new Exclusion 7 addressing post-Date of Policy real estate tax and assessment liens – Driven by new Covered Risk 14 providing "Gap" Coverage [**New Exclusion 7**].
 5. **Defined** "Amount of Insurance" [**New Condition 1(a)**].
 6. **Defined** "Date of Policy" to be the specified date in Schedule A – Relates to new Covered Risk 14 providing "Gap" coverage [**New Condition 1(b)**].
 7. **Defined** "Entity" [**New Condition 1(c)**].
 8. **Defined** "Indebtedness" to include [**New Condition 1(d)**]:
 - Post-policy advances of principal (but need ALTA Endorsement 14-series to insure validity, enforceability and priority of Insured Mortgage for those advances);
 - Obligatory post-policy construction loan advances;
 - Prepayment premiums, exit fees and other similar fees or penalties.

The term "Indebtedness" becomes important in the measure of loss and "Extent of Liability" of the Company [**New Condition 8(a)(ii)**].
 9. **Expanded** definition of "Insured" to include [**New Condition 1(e)**]:
 - The party who has "control" of a "transferable record" where the Indebtedness is evidenced by a "transferable record" (as the quoted terms are defined by applicable electronic transactions law) [**New Condition 1(e)(i)(B)**].
 - Successors by dissolution, merger, consolidation, distribution or reorganization [**New Condition 1(e)(i)(C)**].
 - Successors by conversion to any different form of entity [**New Condition 1(e)(i)(D)**].

- Certain voluntary conveyances “without actual valuable consideration”
[**New Condition 1(e)(i)(E)**]:
 - Where the equity interests of the grantee are wholly owned by the Insured (“subsidiary transfer”);
 - Where the grantee wholly owns the Insured (“parent transfer”);
 - Where the grantee is wholly owned by an “affiliate” of the Insured and that affiliate and the Insured share a common “parent” (“affiliate transfer”).
10. **Expanded** definition of “Unmarketable Title” to (a) delete phrase “not excluded or excepted from coverage” and (b) expressly include lessee and lender interests [**New Condition 1(m)**].
 11. **Eliminated** *requirement* for “sworn” proof of loss within 90 days after Insured determines facts giving rise to loss – former Section 5 of Conditions & Stipulations [**New Condition 4**].
 12. **Added** automatic increase in Amount of Insurance by 10% if the insurer pursues its rights under Section 5 of the Conditions to litigate or otherwise seek to eliminate the defect but is unsuccessful [**New Condition 8(b)(i)**].
 13. **Added** right of Insured to choose when to have the loss determined as between (a) the date the claim is made, or (b) the date the claim is settled and paid [**New Condition 8(b)(ii)**].
 14. **Eliminated** “subsequent principal indebtedness” provision contained in Section 8(d) of the Conditions & Stipulations of 1992 ALTA Loan Policy [**New Condition 9**].
 15. **Eliminated** “last dollar” problem of Section 9 of the Conditions & Stipulations of 1992 ALTA Loan Policy (**will obviate need for “Last Dollar” Endorsement**).
 16. **Eliminated** “Liability Noncumulative” Provision – Section 10 of the Conditions & Stipulations of the 1992 ALTA Loan Policy.
 17. **Eliminated** requirement for production of policy as condition to payment of loss [**Deletion of Section 11(a) of the Conditions & Stipulations of 1992 ALTA Loan Policy**].
 18. **Revised** “Arbitration” Clause [**Revised Condition 13**]:
 - Increased threshold from \$1 million to \$2 million in which arbitration can be unilaterally invoked by either the Insured or the Company;

- Arbitration limited to the parties to the Policy only (i.e. no “class action” arbitrations – “no joinder or consolidation with claims or controversies of other persons”);
 - Reference to the Title Insurance Arbitration Rules of the American Land Title Association – Posted to the ALTA website (www.alta.org).
 - National Arbitration Forum (“NAF”), an independent provider of dispute resolution services, to implement a dispute resolution system for the title insurance industry and administer title insurance arbitrations pursuant to the Title Insurance Arbitration Rules as a supplement to NAF’s Code of Procedure.
19. **Added** “Choice of Law; Forum” Provision [**New Condition 16**].
20. **Added** “endorsement incorporation” language [**New Condition 14(d)**].
21. **Added** cross-reference at top of Page 1 to “Notices” – Section 17 of Conditions.
22. **Added** the following new “Schedule A” provisions:
- Name and Address of Title Insurer
 - Property Address Reference
 - “Check-the-box” incorporation of certain common endorsements [**New Optional Paragraph 6**] – Includes ALTA Endorsement Forms:
 - 4-06 and 4.1-06 (Condominium)
 - 5-06 and 5.1-06 (Planned Unit Development)
 - 6-06 (Variable Rate)
 - 6.2-06 (Variable Rate-Negative Amortization)
 - 8.1-06 (Environmental Lien) – Applies only to improved residential and includes insertion for applicable state “superlien” statute, if any
 - 9-06 (Restriction, Encroachments, Minerals)
 - 13.1-06 (Leasehold Loan)
 - 14-06 (Future Advance – Priority)
 - 14.1-06 (Future Advance – Knowledge)
 - 14.3-06 (Future Advance – Reverse Mortgage)
 - 22-06 (Location) – Referring to the type of improvement and confirming that the street address is as set forth in Schedule A above.

COMPARISON OF THE 1992 AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY WITH AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY
2006

This comparison chart is intended as a guide to identifying differences between the 2006 and 1992 ALTA policies. It should not be relied upon for the interpretation of these policies.

<u>2006 OWNER'S POLICY</u>	<u>1992 OWNER'S POLICY</u>	<u>COMMENTS</u>
Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.	No comparable provision.	This clause is designed to help direct the Insured to the appropriate section (Section 18) of the policy so the Insured will know where to file a notice of claim or any other notice to be given to the Insurer. By placing this clause on the face page of the policy it makes it easier for the Insured to know how to access their policy benefits.
Covered Risks	"Insuring Clauses"	The 1992 policy does not have a section identified as "Insuring Clauses". The 2006 policy utilizes the term Covered Risks similarly to the way some of the more recent ALTA Residential policies use this term to more descriptively designate matters covered under the policy.
SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, BLANK TITLE INSURANCE COMPANY, a Blank corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:	SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, BLANK TITLE INSURANCE COMPANY, a Blank corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:	Added coverage. These two lead-in provisions are substantively the same except that the 2006 policy identifies two Covered Risks that provide post-policy coverage. These post-policy coverages are found in Covered Risks 9 and 10. There are no post-policy coverages in the 1992 policy.
1. Title being vested other than as stated in Schedule A.	1. Title to the estate or interest described in Schedule A being vested other than as stated therein;	Same coverage. The streamlined language in the 2006 policy is due to the fact that the word "Title" is defined in the Conditions to mean the estate or interest described in Schedule A.

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

(a) A defect in the Title caused by

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

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

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

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

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

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

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

(c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.

2. Any defect in or lien or encumbrance on the title;

Same coverage with the exception of Covered Risk 2(c) of the 2006 policy. Covered Risk 2(c) provides express survey coverage that some courts have held does not exist in the printed provisions of the earlier ALTA policy forms. This Covered Risk makes it clear that absent a survey exception in Schedule B this new policy does provide survey coverage including encroachments of improvements onto adjoining land. Even though the substance of the coverage in Covered Risks 2(a) and (b) is included in the second insuring clause of the 1992 policy, the 2006 policy language makes it easier for the Insured to understand the breadth of the coverage. Additionally, Covered Risks 2(a)(iv) and (vi) make it clear that certain aspects of electronic transactions are covered by this policy.

3. Unmarketable Title.

3. Unmarketability of the title;



Added coverage. The 2006 policy definition has been expanded resulting in coverage when a lessee or lender is released from the obligation to lease or lend due to a contractual condition requiring the delivery of marketable title. This additional coverage is not provided by the 1992 policy.

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

4. Lack of a right of access to and from the land;

Same coverage.

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

- (a) the occupancy, use, or enjoyment of the Land;
- (b) the character, dimensions, or location of any improvement erected on the Land;
- (c) the subdivision of land; or
- (d) environmental protection

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

There is no comparable insuring clause in the 1992 policy.



Added coverage. It was initially believed that the 1992 policy would provide similar coverage by reason of the exception contained in Exclusion 1(a). However, there have been several court decisions that have ruled otherwise. These courts take the position that unless coverage appears in the insuring clauses of the policy coverage will not be found. This seems to be the case even though the Exclusions may contain exceptions that were intended to provide coverage. Therefore, it was the desire of the ALTA to make it clear coverage does exist under the circumstances stated by adding this Covered Risk. Additionally, the word "permit" has been added to the 2006 policy language so that if there is loss or damage resulting from a recorded notice of the violation or enforcement of a permit the Insured would have coverage.

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

There is no comparable insuring clause in the 1992 policy.



Added coverage for the Insured. It was initially believed that the 1992 policy would provide similar coverage by reason of the exception contained in Exclusion 1(b). However, there have been several court decisions that have ruled otherwise. These courts take the position that unless coverage appears in the insuring clauses of the policy coverage will not be found. This seems to be the case even though the Exclusions may contain exceptions that were intended to provide coverage. Therefore, it was the desire of the ALTA to make it clear coverage does exist under the circumstances stated by adding this Covered Risk.

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

1. Title to the estate or interest described in Schedule A being vested other than as stated therein; 2. Any defect in or lien or encumbrance on the title;

Same coverage. There is no directly comparable insuring clause in the 1992 policy although if notice of the exercise of rights of eminent domain had been recorded at the Date of Policy this matter would be covered under either Insuring Clause 1 or 2. It was initially believed that the 1992 policy would provide similar coverage by reason of the language of Exclusion 2. However, there have been several court decisions that have ruled otherwise. These courts take the position that unless coverage appears in the insuring clauses of the policy coverage will not be found. This seems to be the case even though the Exclusions may contain language that was intended to provide coverage. Therefore, it was the desire of the ALTA to more clearly state the coverage and to make it clear coverage does exist under the circumstances stated by adding this Covered Risk in the 2006 policy.

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

1. Title to the estate or interest described in Schedule A being vested other than as stated therein; 2. Any defect in or lien or encumbrance on the title;

There is no directly comparable insuring clause in the 1992 policy although if a taking has occurred prior to the Date of Policy which is binding on a BFP this matter would be covered under either Insuring Clause 1 or 2. It was initially believed that the 1992 policy would provide similar coverage by reason of the language of Exclusion 2. However, there have been several court decisions that have ruled otherwise. These courts take the position that unless coverage appears in the insuring clauses of the policy coverage will not be found. This seems to be the case even though the Exclusions may contain language that was intended to provide coverage. Therefore, it was the desire of the ALTA to make it clear coverage does exist under the circumstances stated by adding this Covered Risk in the 2006 policy.

9. Title being vested other than as stated in Schedule A or being defective

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

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

(i) to be timely, or

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

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;



Added coverage. This is creditors' rights coverage addressing transactions occurring prior to the transaction creating the interest being insured. There is no directly comparable insuring clause in the 1992 policy although Insuring Clause 1 covers the substance of Covered Risk 9(a) of the 2006 policy. With respect to Covered Risk 9(b) of the 2006 policy, it was initially believed that the 1992 policy would provide similar coverage by reason of the exception contained in Exclusion 4(b). However, there have been several court decisions that have ruled otherwise. These courts take the position that unless coverage appears in the insuring clauses of the policy coverage will not be found. This seems to be the case even though the Exclusions may contain exceptions that were intended to provide coverage. Therefore, it was the desire of the ALTA to more clearly state the coverage and to make it clear coverage does exist under the circumstances stated by adding this Covered Risk in the 2006 policy.

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

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

Exclusions from Coverage

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

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

There is no comparable insuring clause in the 1992 policy.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title or the lien of the insured mortgage, as insured, but only to the extent provided in the Conditions and Stipulations.

Exclusions from Coverage

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

1. a. Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv)

Added coverage. This Covered Risk provides post-policy title insurance for the gap, if any, between the Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

Added coverage. The 2006 policy covers everything covered by the 1992 "defense clause". However, the 2006 policy defense provision has been expanded to include defense for any matter insured against including such things as access and those matters covered by Covered Risks 5 and 6 none of which are covered by the language of the 1992 policy.

Same language.

Same coverage.

Same coverage. However, the language in the 2006 policy has been simplified making it easier to understand. The exceptions to Exclusions 1(a) and 1(b) of the 1992 policy have been moved to become Covered Risks 5 and 6 of the 2006 policy. The deletion of the words "now or hereafter" from Exclusion 1(a)(ii) of the 1992 policy is a further simplification of the language. This was done in part because it was viewed unnecessary inasmuch as Exclusion 3(d) takes

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

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

environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

b. Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

care of excluding things occurring subsequent to Date of Policy.

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

2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

Same coverage. The "carve-out" language contained in the 1992 policy has been moved to become Covered Risks 7 and 8 in the 2006 policy.

3. Defects, liens, encumbrances, adverse claims, or other matters

(a) created, suffered, assumed, or agreed to by the Insured Claimant;
(b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

(c) resulting in no loss or damage to the Insured Claimant;
(d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or

3. Defects, liens, encumbrances, adverse claims or other matters:

a. created, suffered, assumed or agreed to by the insured claimant;
b. not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;

c. resulting in no loss or damage to the insured claimant;
d. attaching or created subsequent to Date of Policy; or

Same coverage. The 2006 policy language of Exclusion 3(d) makes it clear that this post-policy exclusion does not limit the coverage provided by Covered Risks 9 and 10.

(e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.

e. resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.

4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is

4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:

(a) a fraudulent conveyance or fraudulent transfer; or

a. the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or

(b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.

b. the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
i. to timely record the instrument of transfer;
or
ii. of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

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

No directly comparable exclusion.

Same coverage. The language of the 2006 policy has been simplified for easier reading. This creditors' rights exclusion pertains only to the transaction vesting the Title shown in Schedule A. It does not relate to any earlier transaction that might be considered a fraudulent or preferential transfer that would be covered under Covered Risk 9. Furthermore, the exception to Exclusion 4(b) in the 1992 policy has been moved to become Covered Risk 9(b) of the 2006 policy.

Same coverage. This exclusion was added to the 2006 policy only because this new policy provides substantial post-policy coverage for many things including liens between the Date of Policy and the date of recording of the deed or other instrument of transfer that vests the Title. This exclusion only pertains to the lien of real estate taxes or assessments that are imposed, created or attach during the period mentioned above. It was not necessary to have such an exclusion in the 1992 policy because there was no post-policy coverage.

Conditions

Conditions and Stipulations

The words "and Stipulations" were dropped because they were viewed as not adding anything and therefore unnecessary.

1. Definition of Terms

The following terms when used in this policy mean:

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

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

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

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

- (i) The term "Insured" also includes
 - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
 - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

1. Definition of Terms

The following terms when used in this policy mean:

No comparable definition.

No comparable definition.

No comparable definition.

a. "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

Same language.

Same language.

Same coverage. The "Amount of Insurance" was set forth in Schedule A of the 1992 policy. However, elsewhere in the Conditions and Stipulations the policy uses the term amount of insurance in ways that clearly indicate the amount may change from time to time depending upon the circumstances. This seemed to lead to confusion. By defining this term in the 2006 policy the confusion created by the 1992 policy is eliminated.

Same coverage. The "Date of Policy" was set forth in Schedule A of the 1992 policy and therefore any time "Date of Policy" was used in that policy, it was the date shown on Schedule A to which reference was being made. ALTA made the decision to define this term in Section 1 of the Conditions under Definition of Terms for consistency sake.

Added coverage. This definition was added to the 2006 policy in order to extend coverage to more Insureds as will be seen when reviewing the definition of the term Insured.

Added coverage. The 2006 policy includes within this defined term everything that the 1992 policy includes but with more specificity. In addition, the 2006 policy includes a grantee of an Insured under a deed delivered by the Insured without consideration if the grantee is wholly-owned by the Insured, if the grantee wholly owns the named Insured or if the grantee is wholly-owned by an affiliated entity of the named Insured provided the affiliated entity and the named Insured are both wholly-owned by the same party. Arguably the most important change to this definition eliminates

(C) successors to an Insured by its conversion to another kind of Entity;
(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title

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

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

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

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

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

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

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

b. "insured claimant": an insured claiming loss or damage.

c. "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

a major problem that has existed with all of the predecessors to the 2006 policy by including in Subsection 1(d)(i)(D)(4) a trustee or beneficiary of a trust created by the named Insured for estate planning purposes. There have been a number of reported decisions where the court has ruled that the named Insured loses their title insurance coverage when the named Insured

transfers title to the trustee of a trust for their own estate planning. With this new Subsection the Insured will no longer need to worry about losing coverage under these circumstances.

Same coverage.

Same coverage. The language was cleaned up to fit with defined terms and Covered Risks of the 2006 policy.

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

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

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

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

d. "land": the land described or referred to in Schedule [A][C], and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule [A][C], nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

e. "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

f. "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

No comparable definition.

Same coverage. The language was cleaned up slightly for easier reading. The 1992 policy provided an option for describing the land under either Schedule A or by attaching a Schedule C which contains the legal description. The 2006 policy does not allow for this type of a selection. The reason the "Schedule C option" is no longer needed is because policies today are produced through word processing or automated systems.

Same coverage. The language was modified in the 2006 policy to specifically identify electronic mortgages as being included. Even though electronic mortgages were not specifically mentioned in the 1992 policy definition, they are nonetheless included.

Same coverage. The change in the reference used in this defined term is due to the fact the 2006 policy has added a Covered Risk 5 to include protection for violation or enforcement of environmental protection laws to the extent of a recorded notice.

Same coverage. This newly defined term aids in the simplification of language but does not change the coverage of the policy.

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

g. "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A or the insured mortgage to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.



Added coverage. This defined term was cleaned up by deleting the unnecessary clause "not excluded or excepted from coverage" because all coverage is subject to the Exclusions and Exceptions of the policy. In addition, the definition was broadened to include lessees of and lenders on the Title.

2. CONTINUATION OF INSURANCE

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

2. CONTINUATION OF INSURANCE.

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

Same coverage. The language of the 2006 policy has been cleaned up, but the substance remains the same.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

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

Same coverage. The language has been cleaned up, in part, due to defined terms in the 2006

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

4. PROOF OF LOSS

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

5. PROOF OF LOSS OR DAMAGE.

policy. Also, the reference to Subsection 5(a) in the 2006 policy, instead of Subsection 4(a), is a result of reordering of certain Sections in the 2006 policy.

Same coverage. The substance of Section 4 of

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

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

the 2006 policy was taken from a portion of Section 5 of the 1992 policy. The 2006 policy Proof of Loss Section has been shortened and is much more friendly to the Insured Claimant. The burden on the Insured Claimant in the 1992 policy requiring a proof of loss to automatically be given no longer exists in the 2006 policy. The 90 day period for providing the proof of loss has also disappeared. Instead, the Insurer must first attempt to determine the loss and, if it is unable to do so, may require the Insured Claimant to furnish a signed proof of loss. However, there is no requirement that the proof of loss be sworn to by the Insured Claimant. The remedy stated in the 1992 policy for failing to provide a proof of loss was removed. However, implicit in the 2006 policy Section 4 is the right of the Insurer to withhold payment under the policy until the Insured Claimant furnishes a signed proof of loss if requested to do so by the Insurer.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the

administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

5. DEFENSE AND PROSECUTION OF ACTIONS

4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

Same coverage. The 2006 policy Section 5 is substantively the same as Subsection 4(a), (b) and (c) of the 1992 policy. The language of the

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

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

a. Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

b. The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

2006 policy has been simplified by utilizing defined terms. The change in the reference to Section 7 in the 2006 policy as opposed to Section 6 in the 1992 policy is due to reordering of certain Sections in the 2006 policy.

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

c. Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

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

6. DUTY OF INSURED CLAIMANT TO COOPERATE

4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

Same coverage. This Section 6 of the 2006 policy does not have a single comparable Section in the 1992 policy. Subsection 6(a) of the 2006 policy

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

(b) The Company may reasonably require the

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

matter or matters requiring such cooperation.

5. PROOF OF LOSS OR DAMAGE.

was taken from Subsection 4(d) of the 1992 policy. There is no substantive difference in the language of these two Subsections. Subsection 6(b) of the 2006 policy was taken from the second paragraph of Section 5 of the 1992 policy. Even though there are some language changes, in order to bring the policy language more current with this electronic world, there still is no substantive difference between the two referenced paragraphs. The reason for reordering Sections 4, 5 and 6 of the 2006 policy was because the sequence of events and subject matter is more logical.

Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the

administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of the Company under this policy as to that claim.

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

In case of a claim under this policy, the Company shall have the following additional options:
(a) To Pay or Tender Payment of the Amount of Insurance.

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

In case of a claim under this policy, the Company shall have the following additional options:
a. To Pay or Tender Payment of the Amount of Insurance.

Same coverage. There are language changes in the 2006 policy to make this Section easier to read. The last paragraph of Subsection 7(a) of the 2006 policy does not require the policy to be surrendered to the Company for cancellation as is required in Subsection 6(a)(ii) of the 1992 policy. This requirement was deleted because under current claims handling practices title insurers

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

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

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

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

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

i. To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay.

ii. Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

b. To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

i. to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

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

rarely require the policy to be surrendered. Therefore, it was viewed as being unnecessary.

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

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

8. DETERMINATION AND EXTENT OF LIABILITY

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

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

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

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

7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE.

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 and only to the extent herein described.

a. The liability of the Company under this policy shall not exceed the least of:

- i. the Amount of Insurance stated in Schedule A; or,
- ii. the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

b. In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

Added coverage. There are language changes in Section 8 of the 2006 policy because of defined terms not defined in the 1992 policy. Subsection 8(b) of the 2006 policy expands coverage in two ways. The first expansion is a 10% increase in the Amount of Insurance under Subsection 8(b)(i) in the event the Insurer pursues its rights under Section 5 to defend or prosecute and is unsuccessful in establishing the Title as insured. The second expansion of coverage under Subsection 8(b)(ii) allows the Insured Claimant the choice of determining the loss or damage either as of the date the claim was made or the date it is settled and paid. These are significant added coverages that do not exist in the 1992 policy. Additionally, the co-insurance provision contained in Subsection 7(b) of the 1992 policy has been eliminated in the 2006 policy.

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

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

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

i. where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or

ii. where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

c. The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

No comparable Section.

8. APPORTIONMENT.

▲ Added coverage. The ALTA agreed to expand

If the land described in Schedule [A][C] consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

↑ coverage in the 2006 policy by not having an Apportionment Section. This gives the Insured the benefit of up to the total Amount of Insurance to be applied to provable loss for a claim on a single parcel even though the policy covers multiple parcels that are not used as a single site. This is similar protection afforded an Insured when a tie-in endorsement is issued on an owner's policy.

9. LIMITATION OF LIABILITY

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

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

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

9. LIMITATION OF LIABILITY.

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

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

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

Same coverage. Even though there are minor language changes for easier readability, substantively Section 9 of these two policies is the same.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

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

11. LIABILITY NONCUMULATIVE

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

12. PAYMENT OF LOSS

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

13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

11. LIABILITY NONCUMULATIVE.

It is expressly understood 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 to the insured owner.

12. PAYMENT OF LOSS.

a. No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

b. When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

13. SUBROGATION UPON PAYMENT OR SETTLEMENT.

Same coverage. Even though there are minor language changes for easier readability, substantively Section 10 of these two policies is the same.

Same coverage. Even though there are minor language changes for easier readability, substantively Section 11 of these two policies is the same.

Same coverage. The first paragraph of Section 12 of the 1992 policy was deleted in the 2006 policy. This paragraph was deleted because the ALTA believes that in our current world of databases and electronic record keeping by Title Insurers it was no longer necessary.

Same coverage. In the 2006 policy, the language of this Section has been modified in order to more



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

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

a. The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant. The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

clearly state the rights of the parties. The heading for the Section has been renamed. Subsection 13(a) of the 2006 policy makes it clear that when a claim has been settled the Insurer is automatically subrogated and entitled to the rights of the Insured Claimant without need of any further documentation. However, the Insurer has a right to request the Insured Claimant to execute documents to evidence the transfer of these rights. The Insured Claimant has an obligation to execute these requested documents. On the other hand, this Subsection makes it clear that if a payment of a claim does not make the Insured Claimant whole, the Insurer defers the exercises of its right to recover until such time as the Insured Claimant recovers its entire loss. The ALTA intended for Subsection 13(a) of the 1992 policy to be treated the same as stated in the 2006 policy but the language is not as clear. Subsection 13(b) of the 2006 policy contain a slight language modification, but the substance

is identical to Subsection 13(b) of the 1992 policy.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

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

(b) The Company's Rights Against Non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

14. ARBITRATION

14. ARBITRATION.

Same coverage. Depending upon whether you

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

be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys'

fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

are pro-arbitration or against arbitration the changes made to Section 14 in the 2006 policy arguably add coverage (pro-arbitration) or decrease coverage (against arbitration). The reason one could adopt either of these views is because the threshold below which either the Insured or the Insurer can force the other into arbitration has been increased from \$1,000,000 in the 1992 policy to \$2,000,000 in the 2006 policy. Notwithstanding the possibility of making either of these arguments it is the belief of the ALTA that the changes to this Section in the 2006 policy result in the same coverage in substance as exists in the 1992 policy. Section 14 of the 2006 policy does not contain the clause: "unless prohibited by applicable law..." as contained in the 1992 policy because that clause is unnecessary as a result of Section 16 (Severability) in both policies. Another change made to this Section in the 2006 policy is to have the claim or controversy arbitrated pursuant to the Title Insurance Arbitration Rules of the

American Land Title Association ("Rules") as opposed to the American Arbitration Association. ALTA has selected the National Arbitration Forum to administer arbitration proceedings pursuant to the Rules. The 2006 policy Arbitration Section makes it clear that, except as provided in the Rules, there can be no joinder or consolidation with claims or controversies of other parties. The second paragraph of Section 14 of the 1992 policy, which states that: "the laws of the situs of the land shall apply to an arbitration..." has been deleted in the 2006 policy because that same provision is included in the Rules. The Rules are available at: <http://www.alta.org/standards/arbitration/1.1.06.cfm>.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules. A copy of the Rules may be obtained from the Company upon request.

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

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

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

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

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

16. SEVERABILITY

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

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

b. Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

c. No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

16. SEVERABILITY.

Same coverage. The substance of Section 15 in the 2006 policy is the same as the 1992 policy even though there are some language changes in the 2006 policy which make it easier to read. Also, a Subsection 15(d) has been added to the 2006 policy to make it clear that any endorsement to the policy is made a part of the policy and is subject to its terms. This was done so that there is no question when an endorsement is attached that does not contain the usual boilerplate final paragraph incorporating all of the terms of the policy, that endorsement is nonetheless subject to all of the terms and provisions of the policy except as expressly modified by the endorsement.

Same coverage. Section 16 of the 2006 policy is

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

17. CHOICE OF LAW; FORUM

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

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

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

18. NOTICES, WHERE SENT

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

SCHEDULE A

Name and Address of Title Insurance Company:

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

No comparable Section.

17. NOTICES, WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at [fill in].

SCHEDULE A

substantively the same as the 1992 policy. However, the 2006 policy language has been modified to make it clear that the Severability provision applies even in situations where only part of a provision of the policy has been declared invalid or unenforceable.

Same coverage. The addition of this Section in the 2006 policy does not result in a reduction of coverage when comparing the 2006 policy to the 1992 policy. The first two paragraphs have been added to the 2006 policy to make it clear what law applies in interpreting and enforcing the terms of the policy. The last paragraph has been added to the 2006 policy because of increased cross-border transactions between border countries.

Same coverage. The language has been cleaned up to fit with other language changes in the policy.

Same coverage. Even though the coverage remains the same, there are changes in the 2006

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

1. Name of Insured:
2. The estate or interest in the Land that is insured by this policy is:
3. Title is vested in:
4. The Land referred to in this policy is described as follows:

SCHEDULE B

[File No.] Policy No.

EXCEPTIONS FROM COVERAGE

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

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

4

[File No. _____] Policy No. _____
Amount of Insurance \$ _____
[Premium \$ _____]
Date of Policy _____ [at
a.m./p.m.]

1. Name of Insured:
 2. The estate or interest in the land which is covered by this policy is:
 3. Title to the estate or interest in the land is vested in:
 4. The land referred to in this policy is described as follows:]
- If Paragraph 4 is omitted, a Schedule C, captioned the same as Paragraph 4, must be used.

SCHEDULE B

[File No. _____] Policy No. _____

EXCEPTIONS FROM COVERAGE

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

1. [POLICY MAY INCLUDE REGIONAL EXCEPTIONS IF SO
2. DESIRED BY ISSUING COMPANY]
[VARIABLE EXCEPTIONS SUCH AS TAXES, EASEMENTS, CC & Rs, ETC.]

policy Schedule A that make this policy easier to use both from the Insurer's and the Insured's perspective. First, the 2006 policy Schedule A provides for the Name and Address of the Title Insurance Company whose policy is being issued. The reason for these changes is that occasionally Schedule A becomes separated from the rest of the policy. It is then almost impossible to determine the name and address of the Title Insurance Company to whose policy the Schedule A pertains. Secondly, the 2006 policy Schedule A provides for an Address Reference. The Address Reference was added for the convenience of the Insured to more easily cross reference their file,

the policy and the property to which each pertains. The 1992 policy provided an option for describing the land in paragraph 4 of Schedule A or eliminating paragraph 4 of Schedule A and instead attaching a Schedule C which contains the legal description for the land. The 2006 policy does not allow for this type of a selection. The reason the "Schedule C option" is no longer needed is because policies today are produced through word processing or automated systems.

Same coverage.

Denotes added coverage or benefit in the 2006
Policy from the 1992 Policy



Exhibit “D”

**COMPARISON OF THE 1992 AMERICAN LAND TITLE ASSOCIATION LOAN
POLICY WITH 2006 AMERICAN LAND TITLE ASSOCIATION LOAN
POLICY – WITH COMMENTS**