



ALTA 2006 TITLE INSURANCE POLICIES

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On June 17, 2006 the American Land Title Association ("ALTA") adopted the 2006 ALTA Owner's Policy, the 2006 ALTA Loan Policy, and the 2006 Short Form Residential Loan Policy. ALTA also revised existing policy Endorsements to correspond their text to the new policies and adopted new Endorsements.

The New York State Insurance Department has approved the 2006 ALTA Owner's Policy and the 2006 ALTA Loan Policy, and the ALTA Short Form Residential Loan Policy with Title Insurance Rate Service Association, Inc. ("TIRSA") Amendments effective May 1, 2007. The 1992 ALTA Owner's Policy, the 1992 ALTA Loan Policy, and the 1992 version of the ATLA Short Form Residential Loan Policy with TIRSA Amendments will not issued in New York for closings on and after May 1.

Exhibit A to this manuscript identifies the TIRSA Policy Endorsements which are being revised to correspond their text to the new policies and, as also noted below, the TIRSA policy endorsements which will not be issued with the ALTA 2006 policies. New forms of the Standard New York Endorsement for each of the 2006 ALTA Owner's Policy and the 2006 ALTA Loan Policy have also been approved.

This manuscript compares the 1992 ALTA Owner's Policy and the 2006 ALTA Owner's Policy and the 1992 ALTA Loan Policy and the 2006 ALTA Loan Policy and highlights the changes made by TIRSA and approved by the Insurance Department for New York State.

2006 ALTA OWNER'S POLICY

A. There is a new notice provision at the top of the first page:

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 [Notices Where Sent]

B. Insuring Clauses

There are four Insuring Clauses in the 2002 ALTA Owner's Policy (five in New York). There are ten Covered Risks (eleven in New York) in the 2006 ALTA Owner's Policy.

1. 1992 ALTA Owner's Policy

Insuring Clause 1: Title to the estate or interest described in Schedule A being vested other than as stated therein

2006 ALTA Owner's Policy

Covered Risk 1: Title being vested other than as stated in Schedule A

2. 1992 ALTA Owner's Policy

Insuring Clause 2: Any defect in or lien or encumbrance on the title

2006 ALTA Owner's Policy

Covered Risk 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 authorized 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; or**
- (vii) a defective judicial or administrative proceeding.**

(Emphasis added)

(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 Land 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.

COVERED RISK 2(c) IS DELETED BY THE NEW YORK STANDARD ENDORSEMENT.

Note: "Title" is defined in the Definition of Terms, in the Conditions of the 2006 ALTA Owner's Policy, as: The estate or interest described in Schedule A. "Entity" is defined as: A corporation, partnership, trust, limited liability company, or other similar legal entity. There are no comparable definitions in the 1992 ALTA Owner's Policy.

3. Unmarketability

1992 ALTA Owner's Policy

Insuring Clause 3: Unmarketability of the title

2006 ALTA Owner's Policy

Covered Risk 3: Unmarketable Title

See Definition of Terms, below.

4. 1992 ALTA Owner's Policy

Insuring Clause 4: Lack of a right of access to and from the land

2006 ALTA Owner's Policy

Covered Risk 4: No right of access to and from the Land

5. 2006 ALTA Owner's Policy

Covered Risk 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 improvements erected on the Land; the subdivision of land; or (d) environmental protection if a notice, 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. (Emphasis added)

Note: This coverage has been in the 1992 ALTA Owner's Policy as an exclusion to Exclusion From Coverage 1(a). The word "permit" has been added.

6. 2006 ALTA Owner's Policy, Covered Risk 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.

Note: This coverage has been in the 1992 ALTA Owner's Policy as an exclusion to Exclusion From Coverage 1(b)

7. 2006 ALTA Owner's Policy, Covered Risks 7 and 8

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

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

Note: This coverage has been in the 1992 ALTA Owner's Policy as exclusions to Exclusions from Coverage 2.

8. 2006 ALTA Owner's Policy, Covered Risk 9

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

(a) as the 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 (Emphasis added); 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.

Note: Covered Risk 9(a) is creditor's rights coverage as to transactions occurring prior to the transaction creating the interest being insured. There is no comparable express insuring clause in the 1992 ALTA Owner's Policy. The coverage in Covered Risk 9(b) has been in the 1992 ALTA Owner's Policy as an exclusion to Exclusions from Coverage 4.

9. 2006 ALTA Owner's Policy, Covered Risk 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.

Note: This Covered Risk provides post-policy title insurance coverage for the gap to recording, as limited by Exclusions From Coverage numbered 5. Gap coverage has been afforded in New York in the New York Standard Endorsement.

10. Obligation to Defend

1992 ALTA Owner's Policy

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

2006 ALTA Owner's Policy

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. (Emphasis added)

11. THE STANDARD NEW YORK ENDORSEMENT ADDS THE FOLLOWING AS COVERED RISK 11:

11. Any statutory lien for services, labor or materials furnished prior to the date hereof, and which has now gained or which may hereinafter gain priority over the estate or interest of the insured as shown in Schedule A of this policy.

This text is the same as in the Standard New York Endorsement for the 1992 ALTA Owner's Policy.

C. Exclusions from Coverage

1. The 2006 ALTA Owner's Policy includes the following new Exclusion numbered 5 limiting the Gap Coverage afforded as a Covered Risk: 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.

EXCLUSION 5 HAS BEEN AMENDED BY THE NEW YORK STANDARD ENDORSEMENT TO INCLUDE "WATER CHARGES OR SEWER RENTS" AND READS AS FOLLOWS:

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

This text is the same as in the Standard New York Endorsement for the 1992 ALTA Owner's Policy.

2. The Exclusions in the 2006 ALTA Owner's Policy have been modified to delete the exclusions from the Exclusions which are Covered Risks, and to make it clear that an Exclusion does not limit the coverage provided under a related Covered Risk. Otherwise, as is the case generally in the 2006 ALTA Owner's Policy, the text has been simplified.

D. Conditions

1. Definition of Terms. Section 1, Conditions and Stipulations, 1992 ALTA Owner's Policy, and Section 1, Conditions, 2006 ALTA Owner's Policy.

The 2006 ALTA Owner's Policy includes as defined terms the "Amount of Insurance", "Date of Policy", "Entity", and "Title", and modifies other definitions that are in the 1992 ALTA Owner's Policy.

(a) 2006 ALTA Owner's Policy: "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) [Determination and Extent of Liability], or decreased by Sections 10 [Reduction of Insurance; Reduction or Termination of Liability] and 11 [Liability Noncumulative] of these Conditions.

(b) 2006 ALTA Owner's Policy: "Date of Policy": The date designated as 'Date of Policy' in Schedule A.

(c) 2006 ALTA Owner's Policy: "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) Insured

1992 ALTA Owner's Policy: "insured":

the insured named in Schedule A, and, subject to any rights and 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, distributes, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

2006 ALTA Owner's Policy: "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 heir, devisees, survivors, personal representatives, or next of kin; (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization; (C) successors to an insured by its conversion to another kind of Entity; (D) a grantee of an Insured under an 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 wholly owned by the same person or Entity, or (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes. (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor interest.

IN NEW YORK, THE TIRSA LIMITED LIABILITY COMPANY AND LIMITED LIABILITY PARTNERSHIP ENDORSEMENT WILL NOT BE ISSUED WITH THE 2006 ALTA OWNER'S POLICY. The Coverage of that Endorsement is within the definition of "Insured" in the 2006 ALTA Owner's Policy.

Section 32 of the TIRSA rate manual, setting forth provisions for the "continuation of coverage" as of the original policy date for Owner's Policies issued on and after January 26, 1999 will remain in effect. Section 32 has been amended to expressly include the transfer of title from a principal to its nominee and from a nominee to its principal.

(h) Mortgage

1992 ALTA Owner's Policy: "mortgage": mortgage, deed of trust, trust deed, or other security instrument

2006 ALTA Owner's Policy: "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law. (Emphasis added)

(i) Public Records

1992 ALTA Owner's Policy: "public records":.....With respect to Section 1(a)(v) 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.

2006 ALTA Owner's Policy: "Public Records":....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 in which the land is located.

(j) 2006 ALTA Owner's Policy: "Title": The estate or interest described in Schedule A.

(k) Unmarketable Title

1992 ALTA Owner's Policy: "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excepted or excluded from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

**2006 ALTA Owner's Policy: "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease or lend if there is a contractual condition requiring the delivery of marketable title.
(Emphasis added)**

Note: The definition of "Unmarketable Title" in the 2006 ALTA Owner's Policy and in the 2006 ALTA Loan Policy has been expanded to include lessees and lenders.

2. Proof of Loss

1992 ALTA Owner's Policy, Conditions and Stipulations 5, Proof of Loss or Damage. ...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.."

2006 ALTA Owner's Policy, Condition 4, Proof of Loss: In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

According to the ALTA Forms Committee, as stated in its Comparison of the 1992 ALTA Owners' Policy and the 2006 ALTA Owner's Policy,

"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 proof of loss has also disappeared. Instead, the Insurer must first attempt to determine the loss and, if it unable to do so, may require the Insured Claimant to furnish a signed proof of loss....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".

3. Defense and Prosecution of Actions. Section 4, Conditions and Stipulations, 1992 ALTA Owner's Policy, and Section 5, Conditions, 2006 ALTA Owner's Policy. In the 2006 ALTA Owner's Policy the text has been simplified by using defined terms. Cross-references to other Sections of the Policy have been changed to reflect the re-ordering of certain Sections of the Policy.

4. Duty of Insured Claimant to Cooperate. This is a new Section 6 in the 2006 ALTA Owner's Policy. Section 8 is taken from Subsection 4(d) [Defense and Prosecution of Actions; Duty of Insured Claimant to Cooperate] and part of Section 5 [Proof of Loss or Damage] of the 1992 ALTA Owner's Policy. There is no substantive change.

5. Defense and Prosecution of Actions. Section 4, Conditions and Stipulations, 1992 ALTA Owner's Policy, and Section 5, Conditions, 2006 ALTA Owner's Policy. In the 2006 ALTA Owner's Policy the text has been simplified by using defined terms. Cross-references to other Sections of the Policy have been changed to reflect the re-ordering of certain Sections of the Policy.

6. Options to Pay or Otherwise Settle Claims; Termination of Liability. Section 6, Conditions and Stipulations, 1992 ALTA Owner's Policy, and Section 7, Conditions, 2006 ALTA Owner's Policy. The requirement in the 1992 ALTA Owner's Policy that the "policy shall be surrendered to the Company for cancellation" on payment of the Amount of Insurance has been deleted as unnecessary.

7. Determination and Extent of Liability. Section 7, Conditions and Stipulations, 1992 ALTA Owner's Policy, and Section 8, Conditions, 2006 ALTA Owner's Policy. The Coinsurance provision of the 1992 ALTA Owner's Policy has been eliminated in the 2006 ALTA Owner's Policy. The Section 8(b) of the Conditions of the 2006 ALTA Owner's Policy also expands policy coverage by providing as follows:

(b) If the Company pursues its rights under Section 5 [Defense and Prosecution of Actions] of these Conditions and is unsuccessful in establishing the Title, as insured, (i) the Amount of Insurance shall be increased by 10%, and (ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

8. Apportionment, Section 8 in the Conditions and Stipulations of the 1992 ALTA Owner's Policy, is not included in the 2006 ALTA Owner's Policy. According to the Comparison issued by the ALTA Forms Committee, "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".

Section 8 of the Conditions and Stipulations of the 1992 ALTA Owner's Policy reads as follows:

8. Apportionment. If the land described in Schedule (A) 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 settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on the Date of Policy or 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.

9. Payment of Loss. Section 12, Conditions and Stipulations, 1992 ALTA Owner's Policy, and Section 12, Conditions, 2006 ALTA Owner's Policy. The 2006 ALTA Owner's Policy does not include the following which is in Section 12(a) of the 1992 ALTA Owner's Policy: No payment shall be made without producing this policy for endorsement unless the policy has been lost or destroyed, in which case proof of loss shall be furnished to the satisfaction of the Company.

10. Arbitration. Section 14, Conditions and Stipulations, 1992 ALTA Owner's Policy, and Section 14, Conditions, 2006 ALTA Owner's Policy.

a. The threshold up to and including which either the Insured or the Company can require arbitration has been increased from \$1,000,000 in the 1992 ALTA Owner's Policy to \$2,000,000 in the 2006 ALTA Owner's Policy.

b. Under the 2006 ALTA Owner's Policy, a claim or controversy is to be under the Title Insurance Arbitration Rules of the American Land Title Association, at <http://www.alta.org/standards/arbitration/1.1.06.cfm>, instead of under the Title Insurance Arbitration Rules of the American Arbitration Association.

c. The text in Section 14 of the Conditions and Stipulations of the 1992 ALTA Owner's Policy that "the law of the situs of the land shall apply to an arbitration under the Title Insurance Rules" has been deleted in Section 14 of the 2006 ALTA Owner's Policy since that provision is included in the ALTA Title Insurance Arbitration Rules.

d. According to Section 14 of the Conditions of the 2006 ALTA Owner's Policy, "except as provided in the [ALTA] Rules, there shall be no joinder or consolidation with claims or controversies of other persons". This is not in Section 14 of the 1992 ALTA Owner's Policy.

11. Liability Limited to This Policy; Policy Entire Contract. Section 15, Conditions and Stipulations, 1992 ALTA Owner's Policy, and Section 15, Conditions, 2006 ALTA Owner's Policy. Added to Section 15 in the 2006 ALTA Owner's Policy is the following:

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 specifically 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.

12. Severability. Section 16, Conditions and Stipulations, 1992 ALTA Owner's Policy, and Section 16, Conditions, 2006 ALTA Owner's Policy. Section 16 of the 2006 ALTA Owner's Policy provides:

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. (Emphasis added)

The 1992 ALTA Owner's Policy did not include the text "in whole or in part" or "such part held to be invalid".

13. Section 17, Conditions, 2006 ALTA Owner's Policy, Choice of Law; Forum, has no comparable Section in the Conditions and Stipulations of the 1992 ALTA Owner's Policy.

a. The laws of the jurisdiction in which the Land is located is to be applied to determine the validity of claims against the Title and to interpret and enforce the terms of the Policy.

b. 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.

2006 ALTA LOAN POLICY

A. There is a new notice provision at the top of the first page:

Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 17 [Notices Where Sent]

B. Insuring Clauses

There are eight Insuring Clauses in the 2002 ALTA Loan Policy. There are fourteen Covered Risks in the 2006 ALTA Loan Policy.

1-8. Covered Risks 1-8 in the 2006 ALTA Loan Policy are the same as in the 2006 ALTA Owner's Policy. See the discussion above.

IN NEW YORK, THE SURVEY COVERAGE IN COVERED RISK 2(c) HAS BEEN REVISED BY THE STANDARD NEW YORK ENDORSMENT WHICH READS AS FOLLOWS:

Covered Risk Number 2(c) is deleted if the Land is improved by other than a 1-4 family dwelling or is vacant land.

Due to the survey coverage afforded in Covered Risk 2(c) for land improved by a 1-4 family dwelling the TIRSA Survey Endorsement (Loan Policy) (1-4 Family) is not necessary and will not be issued with the 2006 ALTA Loan) Policy.

9. Covered Risk 5 in the 2006 ALTA Loan Policy: The invalidity or unenforceability of the lien of the insured mortgage upon the title.

2006 ALTA Loan Policy, Covered Risk 9:

The invalidity or unenforceability of the lien of the insured Mortgage upon the Title. This Covered Risk includes but is not limited to insurance against loss from any of the following impairing the lien of the Insured Mortgage

Insuring Clause 9 then lists as (a) through (g) items (i) through (vii) in Covered Risk 2(a) of the 1996 ALTA Owner's Policy, except that Covered Risk 9(c) covers the following: the Insured Mortgage not being properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered.

10. 1992 ALTA Loan Policy, Insuring Clause 6: The invalidity or unenforceability of the lien of the insured mortgage upon the title.

2006 ALTA Loan Policy, Covered Risk 10: The lack of priority of the lien of the Insured Mortgage upon the Title over any other lien or encumbrance.

11. 2006 ALTA Loan Policy, Covered Risk 11.

The lack of priority of the lien of the Insured Mortgage upon the Title

(a) as security for each and every advance of proceeds of the loan secured by the Insured Mortgage over any statutory lien for services, labor, or material arising from construction of an improvement or work related to the Land when the improvement or work is either (i) contracted for or commenced on or before Date of Policy; or (ii) contracted for, commenced or continued after Date of Policy if the construction is financed, in whole or in part, by proceeds of the loan secured by the Insured Mortgage that the Insured has advanced or is obligated on Date of Policy to advance; (Emphasis added)

Except for the underlined text, this coverage is substantially the same as is contained in Insuring Clause 7 of the 1992 ALTA Loan Policy.

IN NEW YORK, COVERED RISK 11(a) HAS BEEN REPLACED BY THE STANDARD NEW YORK ENDORSMENT AND READS AS FOLLOWS:

11. The lack of priority of the lien of the Insured Mortgage upon the Title (a) as security for each and every advance of proceeds of the loan secured by the Insured Mortgage over any statutory lien for services, labor or materials furnished prior to Date of Policy, and which has not gained or which may hereafter gain priority over the lien of the Insured Mortgage.

This text is substantively the same as in the Standard New York Endorsement for the 1992 ALTA Owner's Policy.

The 2006 ALTA Loan Policy adds to its Covered Risk 11 the following:

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

12. 1992 ALTA Loan Policy, Insuring Clause 8, and 2006 ALTA Loan Policy, Covered Risk 12: The invalidity or unenforceability of any assignment of the insured Mortgage (lower case in 1992 policy), provided the assignment is shown in Schedule A, or the failure of the assignment shown in Schedule A to vest title to the

Insured Mortgage (lower case in 1992 policy) in the named Insured (lower case in 1992 policy) free and clear of all liens.

13. 2006 ALTA Loan Policy, Covered Risk 13.

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

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

(b) because the Insured Mortgage constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records (i) to be timely, or (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.

(Emphasis added)

Note: Covered Risk 13 is creditor's rights coverage as to transactions occurring prior to the transaction creating the interest being insured. There is no comparable express insuring clause in the 1992 ALTA Owner's Policy.

The coverage in Covered Risk 9(b) has been in the 1992 ALTA Loan Policy as an exclusion to Exclusions from Coverage 7.

14. 2006 ALTA Loan Policy, Covered Risk 14

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

Note: This Covered Risk provides post-policy title insurance coverage for the gap to recording, subject to Exclusions from Coverage 7.

15. Obligation to Defend

1992 ALTA Loan Policy

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

2006 ALTA Loan Policy

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.

(Emphasis added)

C. Exclusions from Coverage

1. The 2006 ALTA Loan Policy includes the following new Exclusion numbered 7 limiting the Gap Coverage afforded as a Covered Risk: Any lien on the title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b) [mechanics' lien coverage].

IN NEW YORK, EXCLUSION 7 HAS BEEN AMENDED BY THE NEW YORK STANDARD ENDORSEMENT TO INCLUDE "WATER CHARGES OR SEWER RENTS" AND READS AS FOLLOWS:

7. Any lien on the Title for real estate taxes, assessments, water charges or sewer rents imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b) [assessments for street improvements under construction or completed at Date of Policy].

2. 1992 ALTA Loan Policy Exclusions From Coverage 7 (ii) has been deleted and is not a part of Exclusion 6 in the 2006 ALTA Loan Policy. Subparagraph (ii).

7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws that is based on ...(ii) the subordination of the interest of the insured mortgagee as the result of the application of the doctrine of equitable subordination...

Note: According to the ALTA Forms Committee, as stated in its Comparison of the 1992 ALTA Loan Policy and the 2006 ALTA Loan Policy, "it was viewed that equitable subordination was already excluded under Exclusion 3"

3. The Exclusions in the 2006 ALTA Loan Policy have been modified to delete the exclusions from the Exclusions which are Covered Risks, and to make it clear that an Exclusion does not limit the coverage provided under a related Covered Risk. Otherwise, as is the case generally in the 2006 ALTA Loan Policy, the language has been simplified.

D. Conditions

1. Definition of Terms. Section 1, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 1, Conditions, 2006 ALTA Loan Policy.

The 2006 ALTA Loan Policy includes as defined terms "Amount of Insurance", "Date of Policy", "Entity", "Indebtedness", "Insured Mortgage", and "Title", and modifies other definitions that are in the 1992 ALTA Loan Policy.

(a) 2006 ALTA Loan Policy: "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) [Determination and Extent of Liability], or decreased by Section 10 [Reduction of Insurance; Reduction or Termination of Liability] of these Conditions.

Amount of Insurance is identified in Section 2 (c) [Continuation of Insurance. Amount of Insurance] of the Conditions and Stipulations of the 1992 ALTA Loan Policy:

The amount of insurance after the acquisition or after the conveyance shall in neither event exceed the least of: (i) the amount of insurance in Schedule A; (ii) the amount of the principal of the indebtedness secured by the insured mortgage to date of Policy, interest thereon, expenses of foreclosure, amounts advanced pursuant to the insured mortgage to assure compliance with laws or to protect the lien of the insured mortgage prior to the time of acquisition of the estate or interest in the land and secured thereby and reasonable amounts expended to prevent deterioration of the improvements, but reduced by the amount of all payment made; or (iii) the amount paid by any governmental agency, if the agency or instrumentality is the insured claimant, in the acquisition of the estate or interest in satisfaction of its insurance contract or guaranty.

Note: See definition of "Indebtedness" in Section 1 [Definition of Terms] of the 2006 ALTA Loan Policy, below.

(b) 2006 ALTA Loan Policy: "Date of Policy": The date designated as 'Date of Policy' in Schedule A.

(c) 2006 ALTA Loan Policy: "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) 2006 ALTA Loan Policy: "Indebtedness":

The obligation secured by the Insured Mortgage including one evidenced by electronic means authorized by law, and if that obligation is the payment of a debt, the Indebtedness is the sum of (i) the amount of the principal disbursed as of Date of Policy; (ii) the amount of the principal disbursed subsequent to Date of Policy; (iii) the construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the Land or related to the Land that the Insured was and continued to be obligated to advance at Date of Policy and at the date of the advance; (iv) interest on the loan; (v) the prepayment premiums, exit fees, and other similar fees or penalties allowed by law; (vi) the expenses of foreclosure and any other costs of enforcement; (vii) the amounts advanced to assure compliance with laws or to protect the lien or the priority of the lien of the Insured Mortgage before the acquisition of the estate or interest in the Title; (viii) the amounts to pay taxes and insurance; and the reasonable amounts expended to prevent deterioration of improvements; but the Indebtedness is reduced by the total of all payments and by any amount forgiven by an Insured. (Emphasis added)

Note: According to the ALTA Forms Committee, as stated in its Comparison of the 1992 ALTA Loan Policy and the 2006 ALTA Loan Policy,

"This newly defined term not only includes everything included in Section 2(c) ["Amount of Insurance"] but has been expanded to include many more elements of indebtedness...This definition specifically includes obligations secured by the Insured Mortgage evidence by electronic means. This definition even includes advances disbursed subsequent to Date of Policy. However, the policy does not insure the validity, enforceability or priority of the Insured Mortgage as security for these advances unless they are covered under Covered Risk 11 as construction loan advances, but rather allows those advances to be included in the measure of loss..." (Emphasis added)

(e) 2006 ALTA Loan Policy: "Insured": The Insured named in Schedule A.

(i) The term Insured also includes [the following new provisions]

(A) the owner of the Indebtedness and each successor in ownership of the Indebtedness, whether the owner or successor owns the indebtedness for its own account or as a trustee or other fiduciary, except a successor who is an obligor under the provision of Section 12(c) [The Company's Rights Against Noninsured Obligors] of these Conditions.

(B) the person or Entity who has "control" of the "transferable record", if the Indebtedness is evidenced by a "transferable record', as these terms are defined by electronic transactions law;

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

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

(E) the grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured, (2) if the grantee wholly owns the named insured, or 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.

(Emphasis added)

The term "Insured", which is broader than the definition of "insured" in the Conditions and Stipulations of 1992 ALTA Loan Policy, also includes the following, which is taken from the definition of "insured" in the 1992 ALTA Loan Policy. The text "or any part of it" is not in the definition in the 1992 ALTA Loan Policy.

(F) any governmental agency or instrumentality that is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing the Indebtedness secured by the Insured Mortgage, or any part of it, whether named as an Insured or not. (Emphasis added)

(f) 2006 ALTA Loan Policy: Title: The estate or interest described in Schedule A.

(g) Insured Mortgage: 2006 ALTA Loan Policy modifies the definition to include a mortgage evidenced by electronic means authorized by law. (Emphasis added)

(h) Public Records: 2006 ALTA Loan Policy modifies the definition as follows:

1992 ALTA Loan Policy:.....With respect to Section 1(a)(v) 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.

2006 ALTA Loan Policy:...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 in which the Land is located.

(i) Unmarketable Title: 2006 ALTA Loan Policy modifies the definition as follows:

1992 ALTA Loan Policy: "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excepted or excluded from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

2006 ALTA Loan Policy: "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease or lend if there is a contractual condition requiring the delivery of marketable title. (Emphasis added)

Note: The definition of "Unmarketable Title" in the 2006 ALTA Loan Policy and in the 2006 ALTA Loan Policy has been expanded to include coverage lessees and lenders.

2. Continuation of Insurance. Section 2, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 2, Conditions, 2006 ALTA Loan Policy.

Subsections 2(a) [Continuation of Insurance. After Acquisition of Title], subsection (ii) [transferee of an estate or interest so acquired from an insured corporation...] and Subsection (iii) [governmental agency or instrumentality acquiring all or any part of the estate or interest pursuant to a contract of insurance or guarantee] of the 1992 ALTA Loan Policy are not included in Section 2 of the Conditions in the 2006 ALTA Loan Policy as they are within the definition of Insured in the 2006 ALTA Loan Policy.

Subsection 2(c) [Continuation of Insurance. Amount of Insurance (after acquisition or conveyance of title)] of the 1992 ALTA Loan Policy is not included in this Section of the Conditions of the 2006 ALTA Loan Policy due to the definitions of Amount of Insurance and Indebtedness in, and Section 8(a)(iv) of the Conditions of, the 2006 ALTA Loan Policy.

3. Notice Of Claim To Be Given By Insured Claimant. Section 3, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 3, Conditions, 2006 ALTA Loan Policy. Cross-reference to an other Section has been changed in the 2006 ALTA Loan Policy to reflect the re-ordering of certain Sections of the Policy.

4. Proof of Loss. Section 4, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 4, Conditions, 2006 ALTA Loan Policy. See the analysis of the ALTA Forms

Committee, as stated in its Comparison of the 1992 ALTA Owner's Policy and the 2006 ALTA Owner's as to the Proof of Loss Section of those policies, above. In addition, cross-reference to an other Section has been changed in the 2006 ALTA Loan Policy to reflect the re-ordering of certain Sections of the Policy.

5. Defense and Prosecution of Actions. Section 5, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 5, Conditions, 2006 ALTA Loan Policy. Cross-reference to an other Section has been changed in the 2006 ALTA Loan Policy to reflect the re-ordering of certain Sections of the Policy.

6. Duty of Insured Claimant to Cooperate. Subsection 4(d) (Duty of Insured Claimant to Cooperate) and Section 5 (Proof of Loss or Damage, second paragraph), Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 6, 2006 ALTA Loan Policy.

Section 6 in the 2006 ALTA Loan Policy is a new Section. Section 6(a) was taken from Subsection 4(d) of the 1992 ALTA Loan Policy and Section 6(b) of the 2006 ALTA Loan Policy was taken from the second paragraph of Section 5 of the 1992 ALTA Loan Policy.

7. Options To Pay Or Otherwise Settle Claims; Termination of Liability. Section 6, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 7, Conditions, 2006 ALTA Loan Policy. Due to the definition of "Indebtedness" in the 2006 ALTA Loan Policy, there is additional coverage.

Under the 1992 ALTA Loan Policy, in the event of a claim the Company may "purchase the indebtedness secured by the insured mortgage..."

Under the 2006 ALTA Loan Policy,

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

(a) To Pay or Tender Payment of the Amount of Insurance or to Purchase the Indebtedness. (a) To pay or tender payment of the Amount of Insurance under this policy.....(ii) To purchase the Indebtedness for the amount of the Indebtedness on the date of purchase, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of purchaser and that the Company is obligated to pay.

In addition, Section 7 of the 2006 ALTA Loan Policy does not require, as did Section 6 of the 1992 ALTA Loan Policy, that "the policy shall be surrendered to the Company for cancellation". (Emphasis added)

8. Determination and Extent of Liability. Section 7, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 8, Conditions, 2006 ALTA Loan Policy.

a. The definition of "Indebtedness" being added to the 2006 ALTA Loan Policy, there is additional coverage. Under Section 8(a) of the Conditions of the 2006 ALTA Loan Policy,

The extent of liability for the Company for loss or damage under this policy shall not exceed the least of (i) the Amount of Insurance, (ii) the Indebtedness [even if greater than the amount of the unpaid principal indebtedness as in the 1992 ALTA Loan Policy], (iii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this Policy, or (iv) if a government agency or instrumentality is the Insured Claimant, the amount it paid in the acquisition of the Title or the Insured Mortgage in satisfaction of its insurance contract or guaranty. (Emphasis added. See definitions of "Amount of Insurance" and "Indebtedness", ante).

Note: See discussion of "Amount of Insurance" and "Indebtedness", above.

Subsection 8(a) (iv) is taken from Subsection 2(c)(iii) [Amount of Insurance] of the 1992 ALTA Loan Policy.

b. Subsection 8(b) of the 2006 ALTA Loan Policy has no comparable provision in the 1992 ALTA Loan Policy:

If the Company pursues its rights under Section 5 ['Defense and Prosecution of Actions'] of these Conditions and is unsuccessful in establishing the Title or the lien of the Insured Mortgage, as insured, (i) the Amount of Insurance shall be increased by 10%, and (ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid. (Emphasis added)

9. Limitation of Liability. Section 8, Conditions and Stipulations, 1992 ALTA Owner's Policy, and Section 9, Conditions, 2006 ALTA Loan Policy.

The definition of "Indebtedness" being added to the 2006 ALTA Loan Policy, Subsection 8(d) of the 1992 ALTA Loan Policy has been deleted. Subsection 8(d) provides, in part: The Company shall not be liable for (i) any indebtedness created subsequent to Date of Policy except for advances made to protect the lien of the insured mortgage and reasonable amounts expended to prevent deterioration of improvements...

10. Reduction of Insurance; Reduction of Termination of Liability. Section 9, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 10, Conditions, 2006 ALTA Loan Policy.

a. Subsections 9(a) and (b) of the 1992 ALTA Loan Policy:

(a) All payments under this Policy, excepts payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment. However, any payments made prior to the acquisition of title to the estate or interest provided in Section 2(a) [Continuation of Insurance; After Acquisition of Title] of these Conditions and Stipulations shall not reduce pro tanto the amount of the insurance afforded under this policy except to the extent that the payments reduce the amount of the indebtedness secured by the mortgage.

(b) 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. The amount of insurance may thereafter be increased by accruing interest and advances made to protect the lien of the insured mortgage and secured thereby, with interest thereon, provided in no event shall the amount of insurance be greater than the amount of insurance stated in Schedule A.

b. Subsection 10(a) of the 2006 ALTA Loan Policy incorporates the Policy definition of Indebtedness:

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

Subsection 9(b) of the 1992 ALTA Loan Policy, insofar as it provided for the reduction of the amount of insurance by reason of a payment of part of the indebtedness or other obligation secured to the extent of the payment, is not included in the 2006 ALTA Loan Policy. ACCORDINGLY, THE TIRSA LAST DOLLAR ENDORSEMENT IS UNNECESSARY AND WILL NOT BE ISSUED IN NEW YORK WITH THE 2006 ALTA LOAN POLICY. THIS DOES NOT, HOWEVER, ELIMINATE THE NEED TO ENSURE THAT LAST DOLLAR TEXT IS INCLUDED IN A MORTGAGE TO COMPLY WITH REQUIREMENTS FOR THE MORTGAGE RECORDING TAX IN NEW YORK.

c. Due to the definition of Indebtedness in the 2006 ALTA Loan Policy, Subsection 10(c) of the 2006 ALTA Loan Policy differs from Subsection 9(c) in the 1992 ALTA Loan Policy.

1992 ALTA Loan Policy, Subsection 9(c): Payment in full by any person or the voluntary satisfaction or release of the insured mortgage shall terminate all liability of the Company except as provided in Section 2(a) [Continuation of Insurance. After Acquisition of Title] of these Conditions and Stipulations. (Emphasis added)

2006 ALTA Loan Policy, Subsection 10(b): The voluntary satisfaction or release of the Insured Mortgage shall terminate all liability of the Company except as provided in Section 2 [Continuation of Insurance] of these Conditions.

11. The "Liability Noncumulative" provision of the 1992 ALTA Loan Policy, Section 10, Conditions and Stipulations, is not in the 2006 ALTA Loan Policy.

If the insured acquires title to the estate or interest in satisfaction of the indebtedness secured by the insured mortgage, or any part thereof, 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.

12. Payment of Loss. Section 11, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 11, Conditions, 2006 ALTA Loan Policy. The first paragraph of Section 11 in the 1992 ALTA Loan Policy requiring (unless the policy has been lost or destroyed) production of the policy for endorsement of payment before a payment is to be made under the policy is not in the 2006 ALTA Loan Policy.

13. Arbitration. Section 13, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 13, Conditions, 2006 ALTA Loan Policy. See discussion as to Arbitration for the 2006 ALTA Owner's Policy, above.

14. Liability Limited To This Policy; Policy Entire Contract. Section 14, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 14, Conditions, 2006 ALTA Loan Policy. See discussion as to Liability Limited To This Policy for the 2006 ALTA Owner's Policy, above.

15. Severability. Section 15, Conditions and Stipulations, 1992 ALTA Loan Policy, and Section 15, Conditions, 2006 ALTA Loan Policy. See discussion as to Severability for the 2006 ALTA Owner's Policy, above.

16. Choice of Law; Forum, Section 16, Conditions, 2006 ALTA Loan Policy. There is no comparable Section in the Conditions and Stipulations of the 1992 ALTA Owner's Policy. See discussion as to "Choice of Law; Forum" for the 2006 ALTA Owner's Policy, above.

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