

MRF97ACH

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: DEED

NAME OF AGENCY OR CONTRACTOR: MOONRIDGE FALLS, LLC, WALID
BOU-MATER, MANAGER

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: MOONRIDGE
FALLS SUBDIVISION PROPOSED RIGHT OF WAY EXTENSION TO ATCHEE
LANE 2945-032-00-108 ORDER FILE /#97-05-065L

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1997

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

BARGAIN AND SALE DEED

MOONRIDGE FALLS, LLC, a Colorado Limited Liability Company ("Grantor"), whose address is 677 25 1/2 Road, Grand Junction, CO 81505 in consideration of Ten Dollars (\$10.00) sells and conveys to CITY OF GRAND JUNCTION, COLORADO, a Colorado Municipal Corporation whose legal address is 250 North 5th Street, Grand Junction, CO 81501 the property ("Property") described as follows:

A tract of land for road right-of-way purposes in the NE 1/4 NW 1/4 of Section 3, T1S, R1W of the Ute Meridian, Mesa County, Colorado, said tract being forty-four feet in width, twenty-two feet right and twenty-two feet left of the following described centerline (the sidelines of which extend or terminate at the intersections with adjacent property lines):

Commencing at the Mesa County Survey Marker for the S.E. Corner of the NE 1/4 NW 1/4 of said Section 3 from whence a Mesa County Survey Marker for the N.E. Corner of the NE 1/4 NW 1/4 of said Section 3 bears N00°16'55"W 1321.09 feet according to the record plat of Moonridge Falls, Filing No. Two; thence S89°13'48"W on the south line of said Moonridge Falls 754.36 feet to the point of beginning; thence N00°00'00"E 20.00' to the terminus of the centerline from whence the S.E. Corner of the NE 1/4 NW 1/4 of said Section 3 bears S89°15'03"E 754.36 feet.

EXECUTED the 9th day of May, 1997.

MOONRIDGE FALLS, LLC

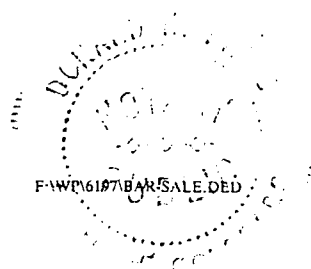
By: Walid Bou-Matar
Walid Bou-Matar, Manager

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 9th day of May, 1997, by Walid Bou-Matar as Manager of Moonridge Falls, LLC.

WITNESS my hand and official seal. My commission expires: Aug 24, 1997.

Donald K. [Signature]
Notary Public



CHICAGO TITLE INSURANCE COMPANY

COMMITMENT FOR TITLE INSURANCE

CHICAGO TITLE INSURANCE COMPANY, a corporation of Missouri, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor; all subject to the provisions of Schedule A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company. This Commitment shall not be valid or binding until countersigned by an authorized officer or agent.

IN WITNESS WHEREOF, the Company has caused this Commitment to be signed and sealed, to become valid when countersigned by an authorized officer or agent of the Company, all in accordance with its By-Laws. This Commitment is effective as of the date shown in Schedule A as "Effective Date."

ISSUED BY:

WESTERN COLORADO TITLE COMPANY
521 Rood Avenue
Grand Junction, Colorado 81501
(970) 243-3070
FAX (970) 243-9556

CHICAGO TITLE INSURANCE COMPANY

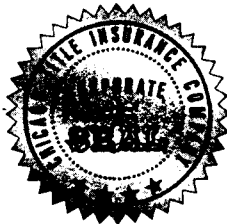
By:

Richard L. Polla
President.

ATTEST:

Thomas J. Adams
Secretary.

Anna H. Jones
Authorized Officer or Agent



WESTERN COLORADO TITLE CO.
P.O. BOX 178
521 ROOD AVENUE
GRAND JUNCTION, CO 81502-0178

CHICAGO TITLE INSURANCE COMPANY
COMMITMENT FOR TITLE INSURANCE

Purported Street Address: ATCHEE LANE EXTENSION, GRAND JUNCTION, CO 81505

Order File Number: 97-05-065L

TAX SCHEDULE NO.: 2945-032-00-108

Customer Service: LORIE

SCHEDULE A

1. Effective date of this Commitment is May 7, 1997 at 8:00 a.m.
2. The estate or interest in the land described or referred to in this Commitment and covered herein is fee simple and title thereto is at the effective date hereof vested in:

MOONRIDGE FALLS, LLC., A COLORADO LIMITED LIABILITY COMPANY

3. Policy or policies to be issued:	AMOUNT	PREMIUM
(a) ALTA Owner's Policy Proposed Insured	\$ 5,000.00	\$ 100.00

CITY OF GRAND JUNCTION, A COLORADO MUNICIPAL CORPORATION

- (b) ALTA Loan Policy
Proposed Insured

TAX CERTIFICATE AMOUNT \$20.00
ENDORSEMENT FORMS

CONTINUED NEXT PAGE

SCHEDULE A (CONT.)

Order File Number: 97-05-065L

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

A tract of land for road right-of-way purposes in the NE 1/4 NW 1/4 of Section 3, Township 1 South, Range 1 West of the Ute Meridian, Mesa County, Colorado, said tract being forty-four feet in width, twenty-two feet right and twenty-two feet left of the following described centerline (the sidelines of which extend or terminate at the intersections with adjacent property lines):

Commencing at the Mesa County Survey Marker for the S.E. Corner of the NE 1/4 NW 1/4 of said Section 3 from whence a Mesa County Survey Marker for the N.E. Corner of the NE 1/4 NW 1/4 of said Section 3 bears North $00^{\circ}16'55''$ West 1321.09 feet according to the record plat of Moonridge Falls, Filing No. Two; thence South $89^{\circ}13'48''$ West on the south line of said Moonridge Falls 754.36 feet to the point of beginning; thence North $00^{\circ}00'00''$ East 20.00 feet to the terminus of the centerline from whence the S.E. Corner of the NE 1/4 NW 1/4 of said Section 3 bears South $89^{\circ}15'03''$ East 754.36 feet,

MESA COUNTY, COLORADO.

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SCHEDULE B - SECTION 1

REQUIREMENTS

Order File Number: 97-05-065L

The following are requirements to be complied with:

Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest to be insured.

Proper instrument(s) creating the estate or interest to be insured must be executed and duly filed for record, to wit:

1. Deed from MOONRIDGE FALLS, LLC., A COLORADO LIMITED LIABILITY COMPANY to CITY OF GRAND JUNCTION, A COLORADO MUNICIPAL CORPORATION conveying the land described in Schedule A, herein.

NOTE: Colorado Law requires that a Real Property Transfer Declaration accompany documents conveying title to real property when such documents are presented for recording. Failure to provide such Declaration may result in monetary penalties being added to property taxes.

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SCHEDULE B - SECTION 2

EXCEPTIONS

Order File Number: 97-05-065L

The policy or policies to be issued will contain exceptions for defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment; and exceptions to the following unless the same are disposed of to the satisfaction of the Company:

1. Rights or claims of parties in possession not shown by the public records.
2. Easements, or claims of easements, not shown by the public records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the premises would disclose and which are not shown by the public records.
4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter, furnished, imposed by law and not shown by the public records.
5. Taxes and assessments which are a lien or due and payable; and any tax, special assessments, charges or lien imposed for water or sewer service, or for any other special taxing district, any unredeemed tax sales.
6. Reservation, as set forth in United States Patent recorded August 14, 1890 in Book 11 at Page 141 as follows: "Herein described property subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to intersect said premises."
7. Reservation, as set forth in United States Patent recorded August 14, 1890 in Book 11 at Page 141 as follows: "Herein described property subject to the right-of-way for ditches and canals constructed by authority of the United States."
8. Right-of-way for Grand Valley Canal across the West side of herein described property.
9. Easement to the Grand Junction and Grand River Valley Railway Company across the NW 1/4 NW 1/4 and NE 1/4 NW 1/4 recorded December 21, 1909 in Book 125 at Page 286 and in Book 125 at Page 288.
10. Reservation of all oil, gas and other minerals and mineral rights by William L. Rice, David G. Rice Jr. and Robert J. Rice in Deed recorded January 6, 1982 in Book 1351 at Page 506 and in instrument recorded September 29, 1994 in Book 2101 at Page 828 and 829 and any and all assignments thereof or interests therein.

CONTINUED NEXT PAGE

11. Deed of Trust from PWS INVESTMENTS, A COLORADO PARTNERSHIP to the Public Trustee of the County of Mesa, for the use of P-H MANAGEMENT, INC., A COLORADO CORPORATION to secure \$2,154,531.00, dated January 19, 1982 and recorded January 27, 1982 in Book 1354 at Page 472.

NOTE: The company hereby agrees to insure against any loss or damage as a result of any execution, foreclosure or other enforceable action by the beneficiaries of said Deed of Trust.

12. Deed of Trust from PWS INVESTMENTS, A COLORADO JOINT VENTURE; (AKA A COLORADO PARTNERSHIP) to the Public Trustee of the County of Mesa, for the use of FIRST SECURITY SAVINGS & LOAN ASSOCIATION to secure \$750,000.00, dated December 30, 1982 and recorded January 6, 1983 in Book 1409 at Page 25.

NOTE: The company hereby agrees to insure against any loss or damage as a result of any execution, foreclosure or other enforceable action by the beneficiaries of said Deed of Trust.

13. Deed of Trust from PWS INVESTMENTS, A COLORADO PARTNERSHIP to the Public Trustee of the County of Mesa, for the use of COLUMBIA SAVINGS, A FEDERAL SAVINGS AND LOAN ASSOCIATION to secure \$680,000.00, dated August 15, 1984 and recorded August 21, 1984 in Book 1506 at Page 810.

NOTE: The company hereby agrees to insure against any loss or damage as a result of any execution, foreclosure or other enforceable action by the beneficiaries of said Deed of Trust.

14. All taxes and assessments now a lien or payable.

15. IF THE LAND DESCRIBED IN SCHEDULE A OF THIS COMMITMENT FOR TITLE INSURANCE IS A SINGLE FAMILY RESIDENCE (INCLUDING A CONDOMINIUM OR TOWNHOUSE UNIT), THE PROPOSED OWNER'S POLICY INSURED IS NOTIFIED:

1. Colorado Insurance Regulations require that every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed;
2. Exception No. 4 of Schedule B, Section 2 may be deleted from the owner's policy, when issued, upon satisfaction of underwriting requirements. These requirements may include indemnity agreements, approval of financial status of an indemnitor, examination of lien waivers, a physical inspection of the property and/or such additional requirements or information as the Company may deem necessary.

SEP 22 1998

DUFFORD, WALDECK, MILBURN & KROHN, L.L.P.

ATTORNEYS AT LAW

744 HORIZON COURT, SUITE 300
GRAND JUNCTION, CO 81506
TELEPHONE: (970) 241-5500
FAX: (970) 243-7738

WILLIAM G. WALDECK
OF COUNSEL

D.J. DUFFORD
(1919-1998)

MONTROSE OFFICE:
222 B SOUTH PARK AVENUE
MONTROSE, CO 81401
TELEPHONE: (970) 249-4500
FAX: (970) 249-5537

BETTY C. BECHTEL
WILLIAM H.T. FREY
RICHARD H. KROHN
LAIRD T. MILBURN
FLINT B. OGLE
MICHAEL C. SANTO

NATHAN A. KEEVER
SAM D. STARRITT

September 22, 1998

Dan Wilson, City Attorney
City of Grand Junction
250 N. Fifth Street
Grand Junction, CO 81501

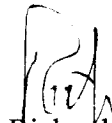
Re: Moonridge Falls

Dear Dan:

I enclose for your file with this letter the original American Land Title Policy No. 06 0010 106 1188 which insures the City's title to a road right-of-way associated with Moonridge Falls. Unbelievably, this policy was just received last week while I was on vacation, despite the fact that it relates to a deed from Moonridge Falls, LLC to the City dated May 9, 1997. You may recall that this was associated with the small triangle of land which was added to Moonridge Falls during one of our many exciting adventures in land use law. Call me if you have any questions.

Warm regards.

Sincerely,



Richard H. Krohn

RHK/saj
Enclosure

F:\WP6197\003\WILSON.LTR

*copy Tim W, Shawn
memo to
Steph
see 10/12/98*

AMERICAN LAND TITLE ASSOCIATION
OWNER'S POLICY
(10-17-92)

06 0010 106 1188

CHICAGO TITLE INSURANCE COMPANY

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, CHICAGO TITLE INSURANCE COMPANY, a Missouri 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:

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

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

In Witness Whereof, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed as of Date of Policy shown in Schedule A, the policy to become valid when countersigned by an authorized signatory.

ISSUED BY:

WESTERN COLORADO TITLE CO.
521 Rood Avenue
Grand Junction, Colorado 81501
(970) 243-3070 FAX (970) 243-9556
Countersigned

By Donald K. Pans
Validating Signatory



CHICAGO TITLE INSURANCE COMPANY
By:

Richard L. Pella
President

By:

Thomas J. Adams
Secretary

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses 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) 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.
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.
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
 - (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, 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:
 - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) 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:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

POLICY NO. 06 010 106 1188
ORDER FILE NO. 97-05-065

SCHEDULE A

AMOUNT
\$5,000.00

DATE OF POLICY
May 14, 1997 at 9:33 a.m.

NAME OF INSURED

CITY OF GRAND JUNCTION, COLORADO,
A COLORADO MUNICIPAL CORPORATION

1. The estate or interest in the land described herein and which is covered by this policy is:

IN FEE SIMPLE

2. The estate or interest referred to herein is at Date of Policy vested in:

THE INSURED

3. The land referred to in this Policy is described as follows:

A tract of land for road right-of-way purposes in the NE 1/4 NW 1/4 of Section 3, Township 1 South, Range 1 West of the Ute Meridian, Mesa County, Colorado, said tract being forty-four feet in width, twenty-two feet right and twenty-two feet left of the following described centerline (the sidelines of which extend or terminate at the intersections with adjacent property lines):

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MESA COUNTY, COLORADO.

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SCHEDULE B

This Policy does not insure against loss or damage by reason of the following:

1. Rights or claims of parties in possession not shown by the public records.
2. Easements, or claims of easements, not shown by the public records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the premises would disclose and which are not shown by the public records.
4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter, furnished, imposed by law and not shown by the public records.
5. Taxes and assessments which are a lien or are now due and payable; any tax, special assessment, charge or lien imposed for or by any special taxing district or for water or sewer service; any unredeemed tax sales.
6. Reservation, as set forth in United States Patent recorded August 14, 1890 in Book 11 at Page 141 as follows: "Herein described property subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to intersect said premises."
7. Reservation, as set forth in United States Patent recorded August 14, 1890 in Book 11 at Page 141 as follows: "Herein described property subject to the right-of-way for ditches and canals constructed by authority of the United States."
8. Right-of-way for Grand Valley Canal across the West side of herein described property.
9. Easement to the Grand Junction and Grand River Valley Railway Company across the NW 1/4 NW 1/4 and NE 1/4 NW 1/4 recorded December 21, 1909 in Book 125 at Page 286 and in Book 125 at Page 288.
10. Reservation of all oil, gas and other minerals and mineral rights by William L. Rice, David G. Rice Jr. and Robert J. Rice in Deed recorded January 6, 1982 in Book 1351 at Page 506 and in instrument recorded September 29, 1994 in Book 2101 at Page 828 and 829 and any and all assignments thereof or interests therein.
11. Deed of Trust from PWS INVESTMENTS, A COLORADO PARTINERSHIP to the Public Trustee of the County of Mesa, for the use of P-H MANAGEMENT, INC., A COLORADO CORPORATION to secure \$2,154,531.00, dated January 19, 1982 and recorded January 27, 1982 in Book 1354 at Page 472.

NOTE: The company hereby agrees to insure against any loss or damage as a result of any execution, foreclosure or other enforceable action by the beneficiaries of said Deed of Trust.

12. Deed of Trust from PWS INVESTMENTS, A COLORADO JOINT VENTURE; (AKA A COLORADO PARTINERSHIP) to the Public Trustee of the County of Mesa, for the use of FIRST SECURITY SAVINGS & LOAN ASSOCIATION to secure \$750,000.00, dated December 30, 1982 and recorded January 6, 1983 in Book 1409 at Page 25.

NOTE: The company hereby agrees to insure against any loss or damage as a result of any execution, foreclosure or other enforceable action by the beneficiaries of said Deed of Trust.

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13. Deed of Trust from PWS INVESTMENTS, A COLORADO PARTNERSHIP to the Public Trustee of the County of Mesa, for the use of COLUMBIA SAVINGS, A FEDERAL SAVINGS AND LOAN ASSOCIATION to secure \$680,000.00, dated August 15, 1984 and recorded August 21, 1984 in Book 1506 at Page 810.

NOTE: The company hereby agrees to insure against any loss or damage as a result of any execution, foreclosure or other enforceable action by the beneficiaries of said Deed of Trust.

14. All taxes and assessments now a lien or payable.

CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(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.

(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.

(d) "land": the land described or referred to in Schedule A, 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, 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.

(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 to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE

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.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 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.

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

(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.

(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.

5. PROOF OF 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.

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.

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.

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.

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.

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.

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:

(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.

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 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.

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.

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

(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.

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 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

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.

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 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

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.

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 the issuing office or to:

Chicago Title Insurance Company
Claims Department
171 North Clark Street
Chicago, Illinois 60601-3294