

Adopted by ALTA Board 06-19-2020
For Public Comment By 12-31-2020 - Send Comments to forms@alta.org

COMMITMENT FOR TITLE INSURANCE
issued by
BLANK TITLE INSURANCE COMPANY

NOTICE

IMPORTANT-READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and the Commitment Conditions, Blank Title Insurance Company, a (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of Insurance and the name of the Proposed Insured.

If all of the Schedule B, Part I-Requirements have not been met within (Insert the time period) after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

COMMITMENT CONDITIONS

1. DEFINITIONS

- a. "Knowledge" or "Known": Actual knowledge or actual notice, but not constructive notice imparted by the Public Records.
b. "Land": The land described in Item 6 of Schedule A and improvements located on that land that by law constitute real property. The term "Land" does not include any property beyond that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road, avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
c. "Mortgage": A mortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.

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- 45 d. "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association,
 46 issued or to be issued by the Company pursuant to this Commitment.
- 47 e. "Proposed Amount of Insurance": Each dollar amount specified in Schedule A as the Proposed
 48 Amount of Insurance of each Policy to be issued pursuant to this Commitment.
- 49 f. "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy
 50 to be issued pursuant to this Commitment.
- 51 g. "Public Records": The recording or filing system established under state statutes in effect at the
 52 Commitment Date under which a document must be recorded or filed to impart constructive notice
 53 of matters relating to the Title to a purchaser for value without Knowledge. The term "Public
 54 Records" does not include any other recording or filing system, including any pertaining to
 55 environmental protection, planning, permitting, zoning, licensing, building, health, public safety, or
 56 national security matters.
- 57 h. "Title": The estate or interest in the Land identified in Item 3 of Schedule A.
- 58 **2.** If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the
 59 Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.
- 60 **3.** The Company's liability and obligation is limited by and this Commitment is not valid without:
- 61 a. the Notice;
 62 b. the Commitment to Issue Policy;
 63 c. the Commitment Conditions;
 64 d. Schedule A;
 65 e. Schedule B, Part I—Requirements; [and]
 66 f. Schedule B, Part II—Exceptions; and
 67 g. a counter-signature by the Company or its issuing agent that may be in electronic form].
- 68 **4. COMPANY'S RIGHT TO AMEND**
- 69 The Company may amend this Commitment at any time. If the Company amends this Commitment to add
 70 a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the
 71 Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company is not
 72 liable for any other amendment to this Commitment.
- 73 **5. LIMITATIONS OF LIABILITY**
- 74 a. The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual
 75 expense incurred in the interval between the Company's delivery to the Proposed Insured of the
 76 Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's
 77 good faith reliance to:
- 78 i. comply with the Schedule B, Part I—Requirements;
 79 ii. eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
 80 iii. acquire the Title or create the Mortgage covered by this Commitment.
- 81 b. The Company is not liable under Commitment Condition 5.a. if the Proposed Insured requested
 82 the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- 83 c. The Company is only liable under Commitment Condition 4 if the Proposed Insured would not have
 84 incurred the expense had the Commitment included the added matter when the Commitment was
 85 first delivered to the Proposed Insured.
- 86 d. The Company's liability does not exceed the lesser of the Proposed Insured's actual expense
 87 incurred in good faith and described in Commitment Condition 5.a. or the Proposed Amount of
 88 Insurance.
- 89 e. The Company is not liable for the content of the Transaction Identification Data, if any.

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- 90 f. The Company is not obligated to issue the Policy referred to in this Commitment unless all of the
 91 Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
 92 g. The Company's liability is further limited by the terms and provisions of the Policy to be issued to
 93 the Proposed Insured.

94 **6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT**

- 95 a. Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under
 96 this Commitment.
 97 b. Any claim must be based in contract and is restricted to the terms and provisions of this
 98 Commitment.
 99 c. This Commitment, as last revised, is the exclusive and entire agreement between the parties with
 100 respect to the subject matter of this Commitment and supersedes all prior commitment
 101 negotiations, representations, and proposals of any kind, whether written or oral, express or
 102 implied, relating to the subject matter of this Commitment.
 103 d. The deletion or modification of any Schedule B, Part II—Exception does not constitute an
 104 agreement or obligation to provide coverage beyond the terms and provisions of this Commitment
 105 or the Policy.
 106 e. Any amendment or endorsement to this Commitment must be in writing [and authenticated by a
 107 person authorized by the Company].
 108 f. When the Policy is issued, all liability and obligation under this Commitment will end and the
 109 Company's only liability will be under the Policy.

110 **7. IF THIS COMMITMENT IS ISSUED BY AN ISSUING AGENT**

111 The issuing agent is the Company's agent only for the limited purpose of issuing title insurance
 112 commitments and policies. The issuing agent is not the Company's agent for the purpose of providing
 113 closing or settlement services.

114 **8. PRO-FORMA POLICY**

115 The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the
 116 coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time
 117 that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

118 **9. CLAIMS PROCEDURES**

119 This Commitment incorporates by reference all Conditions for making a claim in the Policy to be issued to
 120 the Proposed Insured. This Commitment Condition does not modify the limitations of liability in Commitment
 121 Conditions 5 and 6.

122 **10. CLASS ACTION**

123 ALL CLAIMS AND DISPUTES ARISING OUT OF OR RELATING TO THIS COMMITMENT, INCLUDING
 124 ANY SERVICE OR OTHER MATTER IN CONNECTION WITH ISSUING THIS COMMITMENT, ANY
 125 BREACH OF A COMMITMENT PROVISION, OR ANY OTHER CLAIM OR DISPUTE ARISING OUT OF
 126 OR RELATING TO THE TRANSACTION GIVING RISE TO THIS COMMITMENT, MUST BE BROUGHT IN
 127 AN INDIVIDUAL CAPACITY. NO PARTY MAY SERVE AS PLAINTIFF, CLASS MEMBER, OR
 128 PARTICIPANT IN ANY CLASS OR REPRESENTATIVE PROCEEDING. ANY POLICY ISSUED
 129 PURSUANT TO THIS COMMITMENT WILL CONTAIN A CLASS ACTION CONDITION.

130 **[11. ARBITRATION**

131 The Policy contains an arbitration clause. All arbitrable matters when the Proposed Amount of Insurance is
 132 \$2,000,000 or less may be arbitrated at the election of either the Company or the Proposed Insured as the
 133 exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at
 134 <http://www.alta.org/arbitration.>]

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136 [Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment
137 Condition 5.e.:
138 Issuing Agent:
139 Issuing Office:
140 Issuing Office's ALTA® Registry ID:
141 Loan ID Number:
142 Commitment Number:
143 Issuing Office File Number:
144 Property Address:]
145 [Revision Number:]

SCHEDULE A

- 1. Commitment Date:
2. Policy to be issued:
a. [2021 ALTA® Owner's Policy][2021 ALTA® Loan Policy][ALTA® Policy]
Proposed Insured:
Proposed Amount of Insurance: \$
The estate or interest to be insured:
[b. [2021 ALTA® Owner's Policy][2021 ALTA® Loan Policy][ALTA® Policy]
Proposed Insured:
Proposed Amount of Insurance: \$
The estate or interest to be insured:
[c. [2021 ALTA® Owner's Policy][2021 ALTA® Loan Policy][ALTA® Policy]
Proposed Insured:
Proposed Amount of Insurance: \$
The estate or interest to be insured:
3. The estate or interest in the Land at the Commitment Date is: (Identify each estate or interest covered, i.e., fee, leasehold, etc.)
4. The Title is, at the Commitment Date, vested in: (Identify vesting for each estate or interest identified in Item 3 above)
5. The Land is described as follows:

BLANK TITLE INSURANCE COMPANY

By:
Authorized Signatory

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SCHEDULE B, PART I—Requirements

All of the following Requirements must be met:

- 1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records. (Documents to be listed here)

(Additional Requirements may be listed here by number)

SCHEDULE B, PART II—Exceptions

This Commitment does not republish any covenant, condition, restriction, or limitation contained in any document referred to in this Commitment to the extent that the specific covenant, condition, restriction, or limitation violates local, state, or federal discrimination law, including laws based on race, color, religion, sex, sexual orientation, gender identity, handicap, familial status, national origin, or other legally protected class.

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

- [1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.]

(Additional Exceptions may be listed here by number)

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133 [Transaction Identification Data, for which the Company assumes no liability as set forth in Condition 9.d.:
 134 Issuing Agent:
 135 Issuing Office:
 136 Issuing Office's ALTA® Registry ID:
 137 Issuing Office File Number:
 138 Property Address:]

SCHEDULE A

141
 142 Name and Address of Title Insurance Company:
 143 Policy Number:
 144 Amount of Insurance: \$ [Premium: \$]
 145 Date of Policy: [at a.m./p.m.]

- 147 1. The Insured is:
- 148 2. The estate or interest in the Land insured by this policy is:
- 149 3. The Title is vested in:
- 150 4. The Land is described as follows:
- 151 [5. This policy incorporates by reference the endorsements designated below, adopted by the [American Land Title
- 152 Association][_____] as of the Date of Policy:]
- 153

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SCHEDULE B

Policy Number:

EXCEPTIONS FROM COVERAGE

This policy does not republish any covenant, condition, restriction, or limitation contained in any document referred to in this policy to the extent that the specific covenant, condition, restriction, or limitation violates local, state, or federal discrimination law, including laws based on race, color, religion, sex, sexual orientation, gender identity, handicap, familial status, national origin, or other legally protected class.

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

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CONDITIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- a. "Affiliate": An Entity:
 - i. that is wholly-owned by the Insured;
 - ii. that wholly-owns the Insured; or
 - iii. if that Entity and the Insured are both wholly-owned by the same person or Entity.
- b. "Amount of Insurance": The Amount of Insurance stated in Schedule A, as may be increased by Condition 8.c. or decreased by Condition 10 or 11; or increased or decreased by endorsements to this policy.
- c. "Date of Policy": The Date of Policy stated in Schedule A.
- d. "Enforcement Notice": A document recorded in the Public Records that describes any part of the Land and:
 - i. is issued by a governmental agency that identifies a violation or enforcement of a law, ordinance, permit, or governmental regulation;
 - ii. is issued by a holder of the power of eminent domain or a governmental agency that identifies the exercise of a governmental power; or
 - iii. asserts a right to enforce a PACA-PSA Trust.
- e. "Entity": A corporation, partnership, trust, limited liability company, or other entity authorized by law to own title to real property in the jurisdiction where the Land is located.
- f. "Insured":
 - i.
 - (1) The Insured named in Item 1 of Schedule A;
 - (2) the successor to the Title of an Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
 - (3) the successor to the Title of an Insured resulting from dissolution, merger, consolidation, distribution, or reorganization;
 - (4) the successor to the Title of an Insured resulting from its conversion to another kind of Entity; or
 - (5) the grantee of an Insured under a deed or other instrument transferring the Title, if the grantee is:
 - (a) an Affiliate;
 - (b) a trustee or beneficiary of a trust created by a written instrument established for estate planning purposes by an Insured;
 - (c) a spouse who receives the Title because of a dissolution of marriage;
 - (d) a transferee by a transfer effective on the death of an Insured as authorized by law; or
 - (e) another Insured named in Item 1 of Schedule A.
 - ii. The Company reserves all rights and defenses as to any successor or grantee that the Company would have had against any predecessor Insured.
- g. "Insured Claimant": An Insured claiming loss or damage arising under this policy.
- h. "Knowledge" or "Known": Actual knowledge or actual notice, but not constructive notice imparted by the Public Records.
- i. "Land": The land described in Item 4 of Schedule A and improvements located on that land at the Date of Policy that by law constitute real property. The term "Land" does not include any property beyond that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road, avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- j. "Mortgage": A mortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.
- k. "PACA-PSA Trust": A trust under the federal Perishable Agricultural Commodities Act or the federal Packers and Stockyards Act or a similar state or federal law.
- l. "Public Records": The recording or filing system established under state statutes in effect at the Date of Policy under which a document must be recorded or filed to impart constructive notice of matters relating to the Title to a purchaser for value without Knowledge. The term "Public Records" does not include any other recording or filing system, including any pertaining to environmental protection, planning, permitting, zoning, licensing, building, health, public safety, or national security matters.
- m. "Title": The estate or interest in the Land identified in Item 2 of Schedule A.

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- 226 n. "Unmarketable Title": The Title affected by an alleged or apparent matter that would permit a prospective
 227 purchaser or lessee of the Title or a lender on the Title to be released from the obligation to purchase,
 228 lease, or lend if there is a contractual condition requiring the delivery of marketable title.
- 229 **2. CONTINUATION OF COVERAGE**
 230 This policy continues as of the Date of Policy in favor of an Insured, so long as the Insured:
 231 a. retains an estate or interest in the Land;
 232 b. owns an obligation secured by a purchase money mortgage given by a purchaser from the Insured; or
 233 c. has liability for warranties given by the Insured in any transfer or conveyance of the Insured's Title.
 234 Except as provided in Condition 2, this policy terminates and ceases to have any further force or effect after the
 235 Insured conveys the Title. This policy does not continue in force or effect in favor of any person or Entity that is
 236 not the Insured and acquires the Title or an obligation secured by a purchase money mortgage given to the
 237 Insured.
- 238 **3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT**
 239 The Insured must notify the Company promptly in writing if the Insured has Knowledge of:
 240 a. any litigation or other matter for which the Company may be liable under this policy; or
 241 b. any rejection of the Title as Unmarketable Title.
 242 If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's
 243 liability to the Insured Claimant under this policy is reduced to the extent of the prejudice.
- 244 **4. PROOF OF LOSS**
 245 The Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed
 246 proof of loss. The proof of loss must describe the defect, lien, encumbrance, adverse claim, or other matter
 247 insured against by this policy, that constitutes the basis of loss or damage and must state, to the extent possible,
 248 the basis of calculating the amount of the loss or damage.
- 249 **5. DEFENSE AND PROSECUTION OF ACTIONS**
 250 a. Upon written request by the Insured and subject to the options contained in Condition 7, the Company,
 251 at its own cost and without unreasonable delay, will provide for the defense of an Insured in litigation in
 252 which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is
 253 limited to only those stated causes of action alleging matters insured against by this policy. The Company
 254 has the right to select counsel of its choice (subject to the right of the Insured to object for reasonable
 255 cause) to represent the Insured as to those covered causes of action. The Company is not liable for and
 256 will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses
 257 incurred by the Insured in the defense of any cause of action that alleges matters not insured against by
 258 this policy.
 259 b. The Company has the right, in addition to the options contained in Condition 7, at its own cost, to institute
 260 and prosecute any action or proceeding or to do any other act that, in its opinion, may be necessary or
 261 desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The
 262 Company may take any appropriate action under the terms of this policy, whether or not it is liable to the
 263 Insured. The Company's exercise of these rights is not an admission of liability or waiver of any provision
 264 of this policy. If the Company exercises its rights under Condition 5.b., it must do so diligently.
 265 c. When the Company brings an action or asserts a defense as required or permitted by this policy, the
 266 Company may pursue the litigation to a final determination by a court of competent jurisdiction. The
 267 Company reserves the right, in its sole discretion, to appeal any adverse judgment or order.
- 268 **6. DUTY OF INSURED CLAIMANT TO COOPERATE**
 269 a. When this policy permits or requires the Company to prosecute or provide for the defense of any action
 270 or proceeding and any appeals, the Insured will secure to the Company the right to prosecute or provide
 271 defense in the action or proceeding, including the right to use, at its option, the name of the Insured for
 272 this purpose.
 273 When requested by the Company, the Insured, at the Company's expense, must give the Company all
 274 reasonable aid in:
 275 i. securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or
 276 effecting settlement; and
 277 ii. any other lawful act that in the opinion of the Company may be necessary or desirable to
 278 establish the Title or any other matter, as insured.



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279 If the Company is prejudiced by any failure of the Insured to furnish the required cooperation, the
 280 Company's liability and obligations to the Insured under this policy terminate, including any obligation to
 281 defend, prosecute, or continue any litigation, regarding the matter requiring such cooperation.
 282 b. The Company may reasonably require the Insured Claimant to submit to examination under oath by any
 283 authorized representative of the Company and to produce for examination, inspection, and copying, at
 284 such reasonable times and places as may be designated by the authorized representative of the
 285 Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda,
 286 correspondence, reports, e-mails, disks, tapes, and videos, whether bearing a date before or after the
 287 Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized
 288 representative of the Company, the Insured Claimant must grant its permission, in writing, for any
 289 authorized representative of the Company to examine, inspect, and copy all the records in the custody
 290 or control of a third party that reasonably pertain to the loss or damage. No information designated in
 291 writing as confidential by the Insured Claimant provided to the Company pursuant to Condition 6 will be
 292 later disclosed to others unless, in the reasonable judgment of the Company, disclosure is necessary in
 293 the administration of the claim or required by law. Any failure of the Insured Claimant to submit for
 294 examination under oath, produce any reasonably requested information, or grant permission to secure
 295 reasonably necessary information from third parties as required in Condition 6.b., unless prohibited by
 296 law, terminates any liability of the Company under this policy as to that claim.

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

297 In case of a claim under this policy, the Company has the following additional options:

a. **To Pay or Tender Payment of the Amount of Insurance**

299 To pay or tender payment of the Amount of Insurance under this policy. In addition, the Company will
 300 pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by
 301 the Company up to the time of payment or tender of payment and that the Company is obligated to pay.
 302 Upon the exercise by the Company of this option provided for in Condition 7.a., the Company's liability
 303 and obligations to the Insured under this policy terminate, including any obligation to defend, prosecute,
 304 or continue any litigation.

b. **To Pay or Otherwise Settle with Parties other than the Insured or with the Insured Claimant**

306 i. To pay or otherwise settle with parties other than the Insured for or in the name of the Insured
 307 Claimant. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred
 308 by the Insured Claimant that were authorized by the Company up to the time of payment and
 309 that the Company is obligated to pay; or
 310 ii. To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this
 311 policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by
 312 the Insured Claimant that were authorized by the Company up to the time of payment and that
 313 the Company is obligated to pay.

314 Upon the exercise by the Company of either option provided for in Condition 7.b., the Company's liability
 315 and obligations to the Insured under this policy terminate, including any obligation to defend, prosecute,
 316 or continue any litigation.
 317

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

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

325 a. The extent of liability of the Company for loss or damage under this policy does not exceed the lesser
 326 of:

327 i. the Amount of Insurance; or
 328 ii. the difference between the fair market value of the Title, as insured, and the fair market value
 329 of the Title subject to the matter insured against by this policy.

330 b. Except as provided in Condition 8.c. or 8.d., the fair market value of the Title in Condition 8.a.ii. is
 331 calculated using the date the Insured discovers the defect, lien, encumbrance, adverse claim, or other
 332 matter insured against by this policy.
 333



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- 334 c. If, at the Date of Policy, the Title to all of the Land is void by reason of a matter insured against by this
 335 policy, then the Insured Claimant may, by written notice given to the Company, elect to use the Date of
 336 Policy as the date for calculating the fair market value of the Title in Condition 8.a.ii.
- 337 d. If the Company pursues its rights under Condition 5.b. and is unsuccessful in establishing the Title, as
 338 insured:
- 339 i. the Amount of Insurance will be increased by 15%; and
 340 ii. the Insured Claimant may, by written notice given to the Company, elect, as an alternative to
 341 the dates set forth in Condition 8.b. or, if it applies, 8.c., to use either the date the settlement,
 342 action, proceeding, or other act described in Condition 5.b. is concluded or the date the notice
 343 of claim required by Condition 3 is received by the Company as the date for calculating the fair
 344 market value of the Title in Condition 8.a.ii.
- 345 e. In addition to the extent of liability for loss or damage under Conditions 8.a. and 8.d., the Company will
 346 also pay the costs, attorneys' fees, and expenses incurred in accordance with Conditions 5 and 7.

9. LIMITATION OF LIABILITY

- 347 a. The Company fully performs its obligations and is not liable for any loss or damage caused to the Insured
 348 if the Company accomplishes any of the following in a reasonable manner:
- 349 i. removes the alleged defect, lien, encumbrance, adverse claim, or other matter;
 350 ii. cures the lack of a right of access to and from the Land; or
 351 iii. cures the claim of Unmarketable Title,
 352 all as insured. The Company may do so by any method, including litigation and the completion of any
 353 appeals.
- 354 b. The Company is not liable for loss or damage arising out of any litigation, including litigation by the
 355 Company or with the Company's consent, until a court of competent jurisdiction makes a final,
 356 non-appealable determination adverse to the Title.
- 357 c. The Company is not liable for loss or damage to the Insured for liability voluntarily assumed by the
 358 Insured in settling any claim or suit without the prior written consent of the Company.
- 359 d. The Company is not liable for the content of the Transaction Identification Data, if any.
 360

10. REDUCTION OR TERMINATION OF INSURANCE

361 All payments under this policy, except payments made for costs, attorneys' fees, and expenses, reduce the
 362 Amount of Insurance by the amount of the payment.
 363

11. LIABILITY NONCUMULATIVE

364 The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a
 365 Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken
 366 subject, or which is executed by an Insured after the Date of Policy and which is a charge or lien on the Title, and
 367 the amount so paid shall be deemed a payment to the Insured under this policy.
 368

12. PAYMENT OF LOSS

369 When liability and the extent of loss or damage are determined in accordance with the Conditions, the Company
 370 will pay the loss or damage within 30 days.
 371

13. COMPANY'S RECOVERY AND SUBROGATION RIGHTS UPON SETTLEMENT AND PAYMENT

- 372 a. If the Company settles and pays a claim under this policy, it is subrogated and entitled to the rights and
 373 remedies of the Insured Claimant in the Title and all other rights and remedies in respect to the claim
 374 that the Insured Claimant has against any person, entity, or property to the fullest extent permitted by
 375 law, but limited to the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If
 376 requested by the Company, the Insured Claimant must execute documents to transfer these rights and
 377 remedies to the Company. The Insured Claimant permits the Company to sue, compromise, or settle in
 378 the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or
 379 litigation involving these rights and remedies.
 380
- 381 b. If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company
 382 defers the exercise of its subrogation right until after the Insured Claimant fully recovers its loss.
- 383 c. The Company's subrogation right includes the Insured's rights to indemnity, guaranty, warranty,
 384 insurance policy, or bond, despite any provision in those instruments that addresses recovery or
 385 subrogation rights.

14. POLICY ENTIRE CONTRACT

- 386 a. This policy together with all endorsements, if any, issued by the Company is the entire policy and contract
 387 between the Insured and the Company. In interpreting any provision of this policy, this policy will be
 388



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- 389 construed as a whole. This policy and any endorsement to this policy may be evidenced by electronic
 390 means authorized by law.
- 391 b. Any amendment of this policy must be by a written endorsement issued by the Company. To the extent
 392 any term or provision of an endorsement is inconsistent with any term or provision of this policy, the term
 393 or provision of the endorsement controls. Unless the endorsement expressly states, it does not:
- 394 i. modify any prior endorsement,
 395 ii. extend the Date of Policy,
 396 iii. insure against loss or damage exceeding the Amount of Insurance, or
 397 iv. increase the Amount of Insurance.
- 398 **15. SEVERABILITY**
 399 In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law,
 400 this policy will be deemed not to include that provision or the part held to be invalid, but all other provisions will
 401 remain in full force and effect.
- 402 **16. CHOICE OF LAW AND CHOICE OF FORUM**
- 403 a. **Choice of Law**
 404 The Company has underwritten the risks covered by this policy and determined the premium charged in
 405 reliance upon the law affecting interests in real property and the law applicable to the interpretation,
 406 rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.
 407 Any court or arbitrator must apply the law of the jurisdiction where the Land is located to determine the
 408 validity of claims against the Title and to interpret and enforce the terms of this policy. In neither case
 409 may the court or arbitrator apply conflicts of law principles to determine the applicable law.
- 410 b. **Choice of Forum**
 411 Any litigation or other proceeding brought by the Insured against the Company must be filed only in a
 412 state or federal court within the United States of America or its territories having appropriate jurisdiction.
- 413 **17. NOTICES**
 414 Any notice of claim and any other notice or statement in writing required to be given to the Company under this
 415 policy must be given to the Company at: _____ (*fill in*).
- 416 **18. CLASS ACTION**
 417 ALL CLAIMS AND DISPUTES ARISING OUT OF OR RELATING TO THIS POLICY, INCLUDING ANY SERVICE
 418 OR OTHER MATTER IN CONNECTION WITH ISSUING THIS POLICY, ANY BREACH OF A POLICY
 419 PROVISION, OR ANY OTHER CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THE TRANSACTION
 420 GIVING RISE TO THIS POLICY, MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY SERVE
 421 AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS, REPRESENTATIVE, OR PRIVATE
 422 ATTORNEY GENERAL PROCEEDING.
- 423 **[19. ARBITRATION**
- 424 a. All claims and disputes arising out of or relating to this policy, including any service or other matter in
 425 connection with issuing this policy, any breach of a policy provision, or any other claim or dispute arising
 426 out of or relating to the transaction giving rise to this policy, may be resolved by arbitration. If the Amount
 427 of Insurance is \$2,000,000 or less, any claim or dispute may be submitted to binding arbitration at the
 428 election of either the Company or the Insured. If the Amount of Insurance is greater than \$2,000,000,
 429 any claim or dispute may be submitted to binding arbitration only when agreed to by both the Company
 430 and the Insured. Arbitration must be conducted pursuant to the Title Insurance Arbitration Rules of the
 431 American Land Title Association (“ALTA Rules”). The ALTA Rules are available online at
 432 www.alta.org/arbitration. The ALTA Rules incorporate, as appropriate to a particular dispute, the
 433 Consumer Arbitration Rules and Commercial Arbitration Rules of the American Arbitration Association
 434 (“AAA Rules”). The AAA Rules are available online at www.adr.org.
- 435 b. ALL CLAIMS AND DISPUTES MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY
 436 SERVE AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS, REPRESENTATIVE, OR
 437 PRIVATE ATTORNEY GENERAL PROCEEDING IN ANY ARBITRATION GOVERNED BY CONDITION
 438 19. The arbitrator does not have authority to conduct any class action arbitration, private attorney general
 439 arbitration, or arbitration involving joint or consolidated claims under any circumstance.
- 440 c. **If there is a final judicial determination that a request for particular relief cannot be arbitrated in**
 441 **accordance with this Condition 19, then only that request for particular relief may be brought in**
 442 **court. All other requests for relief remain subject to this Condition 19.**

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- 443 d. [The Company will pay all AAA filing, administration, and arbitrator fees of the consumer when the
444 arbitration seeks relief of \$100,000 or less. Other fees][Fees] will be allocated in accordance with the
445 applicable AAA Rules. The results of arbitration will be binding upon the parties. The arbitrator may
446 consider, but is not bound by, rulings in prior arbitrations involving different parties. The arbitrator is
447 bound by rulings in prior arbitrations involving the same parties to the extent required by law. The
448 arbitrator must issue a written decision sufficient to explain the findings and conclusions on which the
449 award is based. Judgment upon the award rendered by the arbitrator may be entered in any court of
450 competent jurisdiction.]
451
452
453

NOTE: Bracketed [] material optional

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LOAN POLICY OF TITLE INSURANCE
issued by
BLANK TITLE INSURANCE COMPANY

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

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at the address shown in Condition 16.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, *Blank Title Insurance Company*, a *Blank* corporation (the "Company"), insures as of the Date of Policy and, to the extent stated in Covered Risks 11, 13, and 14, after the Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. The Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. Covered Risk 2 includes, but is not limited to, insurance against loss from:
 - a. a defect in the Title caused by:
 - i. forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - ii. the failure of a person or Entity to have authorized a transfer or conveyance;
 - iii. a document affecting the Title not properly authorized, created, executed, witnessed, sealed, acknowledged, notarized (including by remote online notarization), or delivered;
 - iv. a failure to perform those acts necessary to create a document by electronic means authorized by law;
 - v. a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - vi. a document not properly filed, recorded, or indexed in the Public Records, including the failure to have performed those acts by electronic means authorized by law;
 - vii. a defective judicial or administrative proceeding; or
 - viii. the repudiation of an electronic signature by a person that executed a document because the electronic signature on the document was not valid under applicable electronic transactions law.
 - b. the lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - c. the effect on the Title of an encumbrance, violation, variation, adverse circumstance, boundary line overlap, or encroachment (including an encroachment of an improvement across the boundary lines of the Land), but only if the encumbrance, violation, variation, adverse circumstance, boundary line overlap, or encroachment would have been disclosed by an accurate and complete land title survey of the Land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. A violation or enforcement of a law, ordinance, permit, or governmental regulation (including those relating to building and zoning), but only to the extent of the violation or enforcement described by the enforcing governmental authority in an Enforcement Notice that identifies a restriction, regulation, or prohibition relating to:
 - a. the occupancy, use, or enjoyment of the Land;
 - b. the character, dimensions, or location of an improvement on the Land;
 - c. the subdivision of the Land; or
 - d. environmental remediation or protection on the Land.
6. An enforcement of a governmental forfeiture, police, regulatory, or national security power, but only to the extent of the enforcement described by the enforcing governmental authority in an Enforcement Notice.
7. An exercise of the power of eminent domain, but only to the extent:
 - a. of the exercise described in an Enforcement Notice; or
 - b. the taking occurred and is binding on a purchaser for value without Knowledge.
8. An enforcement of a PACA-PSA Trust, but only to the extent of the enforcement described in an Enforcement Notice.

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- 57 9. The invalidity or unenforceability of the lien of the Insured Mortgage upon the Title. Covered Risk 9 includes, but
58 is not limited to, insurance against loss caused by:
- 59 a. forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - 60 b. the failure of a person or Entity to have authorized a transfer or conveyance;
 - 61 c. the Insured Mortgage not being properly authorized, created, executed, witnessed, sealed,
62 acknowledged, notarized (including by remote online notarization), or delivered;
 - 63 d. a failure to perform those acts necessary to create an Insured Mortgage by electronic means authorized
64 by law;
 - 65 e. a document having been executed under a falsified, expired, or otherwise invalid power of attorney;
 - 66 f. the Insured Mortgage not having been properly filed, recorded, or indexed in the Public Records,
67 including the failure to have performed those acts by electronic means authorized by law;
 - 68 g. a defective judicial or administrative proceeding; or
 - 69 h. invalidity or unenforceability of the lien of the Insured Mortgage as a result of the repudiation of an
70 electronic signature by a person that executed the Insured Mortgage because the electronic signature
71 on the Insured Mortgage was not valid under applicable electronic transactions law.
- 72 10. The lack of priority of the lien of the Insured Mortgage over any other lien or encumbrance on the Title as security
73 for the following components of the Indebtedness:
- 74 a. the amount of the principal disbursed as of the Date of Policy;
 - 75 b. the interest on the obligation secured by the Insured Mortgage;
 - 76 c. the reasonable expense of foreclosure;
 - 77 d. amounts advanced for insurance premiums by the Insured before the acquisition of the estate or interest
78 in the Title; and
 - 79 e. the following amounts advanced by the Insured before the acquisition of the estate or interest in the Title
80 to protect the priority of the lien of the Insured Mortgage:
 - 81 i. real estate taxes and assessments imposed by a governmental taxing authority; and
 - 82 ii. regular, periodic assessments by a property owners' association.
- 83 11. The lack of priority of the lien of the Insured Mortgage upon the Title:
- 84 a. as security for each advance of proceeds of the loan secured by the Insured Mortgage over any statutory
85 lien for service, labor, material, or equipment arising from construction of an improvement or work related
86 to the Land when the improvement or work is:
 - 87 i. contracted for or commenced on or before the Date of Policy; or
 - 88 ii. contracted for, commenced, or continued after the Date of Policy if the construction is financed,
89 in whole or in part, by proceeds of the loan secured by the Insured Mortgage that the Insured
90 has advanced or is obligated on the Date of Policy to advance; and
 - 91 b. over the lien of any assessments for street improvements under construction or completed at the Date
92 of Policy.
- 93 12. The invalidity or unenforceability of any assignment of the Insured Mortgage, provided the assignment is shown
94 in Schedule A, or the failure of the assignment shown in Schedule A to vest title to the Insured Mortgage in the
95 named Insured assignee free and clear of all liens.
- 96 13. The invalidity, unenforceability, lack of priority, or avoidance of the lien of the Insured Mortgage upon the Title, or
97 a court order providing an alternative remedy:
- 98 a. resulting from the avoidance, in whole or in part, of any transfer of all or any part of the Title to the Land
99 or any interest in the Land occurring prior to the transaction creating the lien of the Insured Mortgage
100 because that prior transfer constituted:
 - 101 i. a fraudulent conveyance, fraudulent transfer, or preferential transfer under federal bankruptcy,
102 state insolvency, or similar creditors' rights law; or
 - 103 ii. a voidable transfer under the Uniform Voidable Transactions Act; or
 - 104 b. because the Insured Mortgage constitutes a preferential transfer under federal bankruptcy, state
105 insolvency, or similar creditors' rights law by reason of the failure:
 - 106 i. to timely record the Insured Mortgage in the Public Records after execution and delivery of the
107 Insured Mortgage to the Insured; or
 - 108 ii. of the recording of the Insured Mortgage in the Public Records to impart notice of its existence
109 to a purchaser for value or to a judgment or lien creditor.
- 110 14. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 13 that has
111 been created or attached or has been filed or recorded in the Public Records subsequent to the Date of Policy
112 and prior to the recording of the Insured Mortgage in the Public Records.
- 113

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DEFENSE OF COVERED CLAIMS

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

[Witness clause]

BLANK TITLE INSURANCE COMPANY

BY: _____
PRESIDENT

BY: _____
SECRETARY

For Comment By 12-31-2020

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EXCLUSIONS FROM COVERAGE

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

1. a. any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricts, regulates, prohibits, or relates to:
 - i. the occupancy, use, or enjoyment of the Land;
 - ii. the character, dimensions, or location of any improvement on the Land;
 - iii. the subdivision of land; or
 - iv. environmental remediation or protection.
 - b. any governmental forfeiture, police, regulatory, or national security power.
 - c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.
- Exclusion 1 does not modify or limit the coverage provided under Covered Risk 5 or 6.
2. Any power of eminent domain. Exclusion 2 does not modify or limit the coverage provided under Covered Risk 7.
 3. Any defect, lien, encumbrance, adverse claim, or other matter:
 - a. created, suffered, assumed, or agreed to by the Insured Claimant;
 - b. not Known to the Company, not recorded in the Public Records at the Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - c. resulting in no loss or damage to the Insured Claimant;
 - d. attaching or created subsequent to the Date of Policy (Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - e. resulting in loss or damage that would not have been sustained if consideration sufficient to qualify the Insured named in Schedule A as a bona fide purchaser or encumbrancer had been given for the Insured Mortgage at the Date of Policy.
 4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business law of the state where the Land is located.
 5. Invalidity or unenforceability of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury law or Consumer Protection Law.
 6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights law, that the transaction creating the lien of the Insured Mortgage is:
 - a. a fraudulent conveyance or fraudulent transfer;
 - b. a voidable transfer under the Uniform Voidable Transactions Act; or
 - c. a preferential transfer:
 - i. to the extent the Insured Mortgage is not a transfer made as a contemporaneous exchange for new value; or
 - ii. for any other reason not stated in Covered Risk 13.b.
 7. Any claim of a PACA-PSA Trust. Exclusion 7 does not modify or limit the coverage provided under Covered Risk 8.
 8. Any lien on the Title for real estate taxes or assessments, imposed by a governmental authority and created or attaching between the Date of Policy and the date of recording of the Insured Mortgage in the Public Records. Exclusion 8 does not modify or limit the coverage provided under Covered Risk 2.b. or 11.b.
 9. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.

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

- 180 Issuing Agent:
- 181 Issuing Office:
- 182 Issuing Office's ALTA® Registry ID:
- 183 Loan ID Number:
- 184 Issuing Office File Number:
- 185 Property Address:]

SCHEDULE A

188
189 Name and Address of Title Insurance Company:

190 Policy Number:

191 Amount of Insurance: \$ [Premium: \$]

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

- 193
- 194 1. The Insured is:
- 195 2. The estate or interest in the Land encumbered by the Insured Mortgage is:
- 196 3. The Title encumbered by the Insured Mortgage is vested in:
- 197 4. The Insured Mortgage and its assignments, if any, are described as follows:
- 198 5. The Land is described as follows:
- 199 [6. This policy incorporates by reference the endorsements designated below, adopted by the [American Land Title
- 200 Association][] as of the Date of Policy:]
- 201
- 202

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SCHEDULE B

Policy Number:

EXCEPTIONS FROM COVERAGE

This policy does not republish any covenant, condition, restriction, or limitation contained in any document referred to in this policy to the extent that the specific covenant, condition, restriction, or limitation violates local, state, or federal discrimination law, including laws based on race, color, religion, sex, sexual orientation, gender identity, handicap, familial status, national origin, or other legally protected class.

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

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

PART I

(Insert Schedule B exceptions here)

PART II

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

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CONDITIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- a. "Affiliate": An Entity:
 - i. that is wholly-owned by the Insured;
 - ii. that wholly-owns the Insured; or
 - iii. if that Entity and the Insured are both wholly-owned by the same person or Entity.
- b. "Amount of Insurance": The Amount of Insurance stated in Schedule A, as may be increased by Condition 8.c.; decreased by Condition 10; or increased or decreased by endorsements to this policy.
- c. "Consumer Protection Law": Any law regulating trade, lending, credit, sale, and debt collection practices involving consumers; any consumer financial law; or any other law relating to truth-in-lending, predatory lending, or a borrower's ability to repay a loan.
- d. "Date of Policy": The Date of Policy stated in Schedule A.
- e. "Enforcement Notice": A document recorded in the Public Records that describes any part of the Land and:
 - i. is issued by a governmental agency that identifies a violation or enforcement of a law, ordinance, permit, or governmental regulation;
 - ii. is issued by a holder of the power of eminent domain or a governmental agency that identifies the exercise of a governmental power; or
 - iii. asserts a right to enforce a PACA-PSA Trust.
- f. "Entity": A corporation, partnership, trust, limited liability company, or other entity authorized by law to own title to real property in the jurisdiction where the Land is located.
- g. "Government Mortgage Agency or Instrumentality": Any government agency or instrumentality that is the owner of the Indebtedness, an insurer, or a guarantor under an insurance contract or guaranty insuring or guaranteeing the Indebtedness, or any part of it, whether named as an Insured or not.
- h. "Indebtedness": Any obligation secured by the Insured Mortgage, including an obligation evidenced by electronic means authorized by law. If that obligation is the payment of a debt, the Indebtedness is:
 - i. the sum of:
 - (1) principal disbursed as of the Date of Policy;
 - (2) principal disbursed subsequent to the Date of Policy;
 - (3) the construction loan advances made subsequent to the Date of Policy for the purpose of financing, in whole or in part, the construction of an improvement to the Land or related to the Land that the Insured was and continues to be obligated to advance at the Date of Policy and at the date of the advance;
 - (4) interest on the loan;
 - (5) prepayment premiums, exit fees, and other similar fees or penalties allowed by law;
 - (6) expenses of foreclosure and any other costs of enforcement;
 - (7) advances for insurance premiums;
 - (8) advances to assure compliance with law or to protect the validity, enforceability, or priority of the lien of the Insured Mortgage before the acquisition of the estate or interest in the Title; including, but not limited to:
 - (a) real estate taxes and assessments imposed by a governmental taxing authority, and
 - (b) regular, periodic assessments by a property owners' association; and
 - (9) advances to prevent deterioration of improvements before the Insured's acquisition of the Title, but
 - ii. reduced by the sum of all payments and any amounts forgiven by an Insured.
- i. "Insured":
 - i. (1) The Insured named in Item 1 of Schedule A or future owner of the Indebtedness other than an Obligor, if the named Insured or future owner of the Indebtedness owns the Indebtedness, the Title, or an estate or interest in the Land as provided in Condition 2, but only to the extent the named Insured or the future owner either:
 - (a) owns the Indebtedness for its own account or as a trustee or other fiduciary, or
 - (b) owns the Title after acquiring the Indebtedness;

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- 285 (2) the person or Entity who has “control” of the “transferable record,” if the Indebtedness
 286 is evidenced by a “transferable record,” as defined by applicable electronic transactions
 287 law;
 288 (3) the successor to the Title of an Insured resulting from dissolution, merger,
 289 consolidation, distribution, or reorganization;
 290 (4) the successor to the Title of an Insured resulting from its conversion to another kind of
 291 Entity;
 292 (5) the grantee of an Insured under a deed or other instrument transferring the Title, if the
 293 grantee is an Affiliate;
 294 (6) an Affiliate that acquires the Title through foreclosure or deed-in-lieu of foreclosure of
 295 the Insured Mortgage; or
 296 (7) any Government Mortgage Agency or Instrumentality.
 297 ii. With regard to Conditions 1.i.i.(1) and 1.i.i.(2), the Company reserves all rights and defenses as
 298 to any successor that the Company would have had against any predecessor Insured, unless
 299 the successor acquired the Indebtedness as a purchaser for value without Knowledge of the
 300 asserted defect, lien, encumbrance, adverse claim, or other matter insured against by this
 301 policy.
 302 iii. With regard to Conditions 1.i.i.(3), 1.i.i.(4), 1.i.i.(5), and 1.i.i.(6), the Company reserves all rights
 303 and defenses as to any successor or grantee that the Company would have had against any
 304 predecessor Insured.
 305 j. “Insured Claimant”: An Insured claiming loss or damage arising under this policy.
 306 k. “Insured Mortgage”: The Mortgage described in Item 4 of Schedule A.
 307 l. “Knowledge” or “Known”: Actual knowledge or actual notice, but not constructive notice imparted by the
 308 Public Records.
 309 m. “Land”: The land described in Item 5 of Schedule A and improvements located on that land at the Date
 310 of Policy that by law constitute real property. The term “Land” does not include any property beyond that
 311 described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road,
 312 avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that
 313 a right of access to and from the Land is insured by this policy.
 314 n. “Mortgage”: A mortgage, deed of trust, trust deed, security deed, or other real property security
 315 instrument, including one evidenced by electronic means authorized by law.
 316 o. “Obligor”: A person or Entity that is or becomes a maker, borrower, or guarantor as to all or part of the
 317 Indebtedness or other obligation secured by the Insured Mortgage. A Government Mortgage Agency or
 318 Instrumentality is not an Obligor.
 319 p. “PACA-PSA Trust”: A trust under the federal Perishable Agricultural Commodities Act or the federal
 320 Packers and Stockyards Act or a similar state or federal law.
 321 q. “Public Records”: The recording or filing system established under state statutes in effect at the Date of
 322 Policy under which a document must be recorded or filed to impart constructive notice of matters relating
 323 to the Title to a purchaser for value without Knowledge. The term “Public Records” does not include any
 324 other recording or filing system, including any pertaining to environmental protection, planning,
 325 permitting, zoning, licensing, building, health, public safety, or national security matters.
 326 r. “Title”: The estate or interest in the Land identified in Item 2 of Schedule A.
 327 s. “Unmarketable Title”: The Title affected by an alleged or apparent matter that would permit a prospective
 328 purchaser or lessee of the Title, a lender on the Title, or a prospective purchaser of the Insured Mortgage
 329 to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring
 330 the delivery of marketable title.

2. CONTINUATION OF COVERAGE

331 This policy continues as of the Date of Policy in favor of an Insured:

- 332 a. after the Insured’s acquisition of the Title, so long as the Insured retains an estate or interest in the Land;
 333 and
 334 b. after the Insured’s conveyance of the Title, so long as the Insured:
 335 i. retains an estate or interest in the Land;
 336 ii. owns an obligation secured by a purchase money mortgage given by a purchaser from the
 337 Insured; or
 338 iii. has liability for warranties given by the Insured in any transfer or conveyance of the Insured’s
 339 Title.
 340

341 Except as provided in Condition 2, this policy terminates and ceases to have any further force or effect after the
 342 Insured conveys the Title. This policy does not continue in force or effect in favor of any person or Entity that is

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343 not the Insured and acquires the Title or an obligation secured by a purchase money mortgage given to the
344 Insured.

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

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

- 347 a. any litigation or other matter for which the Company may be liable under this policy; or
348 b. any rejection of the Title or the lien of the Insured Mortgage as Unmarketable Title.

349 If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's
350 liability to the Insured Claimant under this policy is reduced to the extent of the prejudice.

351 **4. PROOF OF LOSS**

352 The Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed
353 proof of loss. The proof of loss must describe the defect, lien, encumbrance, adverse claim, or other matter
354 insured against by this policy, that constitutes the basis of loss or damage and must state, to the extent possible,
355 the basis of calculating the amount of the loss or damage.

356 **5. DEFENSE AND PROSECUTION OF ACTIONS**

357 a. Upon written request by the Insured and subject to the options contained in Condition 7, the Company,
358 at its own cost and without unreasonable delay, will provide for the defense of an Insured in litigation in
359 which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is
360 limited to only those stated causes of action alleging matters insured against by this policy. The Company
361 has the right to select counsel of its choice (subject to the right of the Insured to object for reasonable
362 cause) to represent the Insured as to those covered causes of action. The Company is not liable for and
363 will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses
364 incurred by the Insured in the defense of any cause of action that alleges matters not insured against by
365 this policy.

366 b. The Company has the right, in addition to the options contained in Condition 7, at its own cost, to institute
367 and prosecute any action or proceeding or to do any other act that, in its opinion, may be necessary or
368 desirable to establish the Title or the lien of the Insured Mortgage, as insured, or to prevent or reduce
369 loss or damage to the Insured. The Company may take any appropriate action under the terms of this
370 policy, whether or not it is liable to the Insured. The Company's exercise of these rights is not an
371 admission of liability or waiver of any provision of this policy. If the Company exercises its rights under
372 Condition 5.b., it must do so diligently.

373 c. When the Company brings an action or asserts a defense as required or permitted by this policy, the
374 Company may pursue the litigation to a final determination by a court of competent jurisdiction. The
375 Company reserves the right, in its sole discretion, to appeal any adverse judgment or order.

376 **6. DUTY OF INSURED CLAIMANT TO COOPERATE**

377 a. When this policy permits or requires the Company to prosecute or provide for the defense of any action
378 or proceeding and any appeals, the Insured will secure to the Company the right to prosecute or provide
379 defense in the action or proceeding, including the right to use, at its option, the name of the Insured for
380 this purpose.

381 When requested by the Company, the Insured, at the Company's expense, must give the Company all
382 reasonable aid in:

- 383 i. securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or
384 effecting settlement; and
385 ii. any other lawful act that in the opinion of the Company may be necessary or desirable to
386 establish the Title, the lien of the Insured Mortgage, or any other matter, as insured.

387 If the Company is prejudiced by any failure of the Insured to furnish the required cooperation, the
388 Company's liability and obligations to the Insured under this policy terminate, including any obligation to
389 defend, prosecute, or continue any litigation, regarding the matter requiring such cooperation.

390 b. The Company may reasonably require the Insured Claimant to submit to examination under oath by any
391 authorized representative of the Company and to produce for examination, inspection, and copying, at
392 such reasonable times and places as may be designated by the authorized representative of the
393 Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda,
394 correspondence, reports, e-mails, disks, tapes, and videos, whether bearing a date before or after the
395 Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized
396 representative of the Company, the Insured Claimant must grant its permission, in writing, for any
397 authorized representative of the Company to examine, inspect, and copy all the records in the custody
398 or control of a third party that reasonably pertain to the loss or damage. No information designated in

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399 writing as confidential by the Insured Claimant provided to the Company pursuant to Condition 6 will be
 400 later disclosed to others unless, in the reasonable judgment of the Company, disclosure is necessary in
 401 the administration of the claim or required by law. Any failure of the Insured Claimant to submit for
 402 examination under oath, produce any reasonably requested information, or grant permission to secure
 403 reasonably necessary information from third parties as required in Condition 6.b., unless prohibited by
 404 law, terminates any liability of the Company under this policy as to that claim.

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

405 In case of a claim under this policy, the Company has the following additional options:

406 a. **To Pay or Tender Payment of the Amount of Insurance or to Purchase the Indebtedness**

- 407 i. To pay or tender payment of the Amount of Insurance under this policy. In addition, the Company
 408 will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were
 409 authorized by the Company up to the time of payment or tender of payment and that the
 410 Company is obligated to pay; or
 411 ii. To purchase the Indebtedness for the amount of the Indebtedness on the date of purchase. In
 412 addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured
 413 Claimant that were authorized by the Company up to the time of purchase and that the Company
 414 is obligated to pay.

415 If the Company purchases the Indebtedness, the Insured must transfer, assign, and convey to
 416 the Company the Indebtedness and the Insured Mortgage, together with any collateral security.

417 Upon the exercise by the Company of either option provided for in Condition 7.a., the Company's liability
 418 and obligations to the Insured under this policy terminate, including any obligation to defend, prosecute,
 419 or continue any litigation.

420 b. **To Pay or Otherwise Settle with Parties other than the Insured or with the Insured Claimant**

- 421 i. To pay or otherwise settle with parties other than the Insured for or in the name of the Insured
 422 Claimant. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred
 423 by the Insured Claimant that were authorized by the Company up to the time of payment and
 424 that the Company is obligated to pay; or
 425 ii. To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this
 426 policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by
 427 the Insured Claimant that were authorized by the Company up to the time of payment and that
 428 the Company is obligated to pay.

429 Upon the exercise by the Company of either option provided for in Condition 7.b., the Company's liability
 430 and obligations to the Insured under this policy terminate, including any obligation to defend, prosecute,
 431 or continue any litigation.

8. CONTRACT OF INDEMNITY; DETERMINATION AND EXTENT OF LIABILITY

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

439 a. The extent of liability of the Company for loss or damage under this policy does not exceed the least of:

- 440 i. the Amount of Insurance;
 441 ii. the Indebtedness;
 442 iii. the difference between the fair market value of the Title, as insured, and the fair market value
 443 of the Title subject to the matter insured against by this policy; or
 444 iv. if a Government Mortgage Agency or Instrumentality is the Insured Claimant, the amount it paid
 445 in the acquisition of the Title or the Insured Mortgage or in satisfaction of its insurance contract
 446 or guaranty relating to the Title or the Insured Mortgage.

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

- 448 i. the date the Insured acquires the Title as a result of a foreclosure or deed in lieu of foreclosure
 449 of the Insured Mortgage; or
 450 ii. the date the lien of the Insured Mortgage or any assignment set forth in Item 4 of Schedule A is
 451 extinguished or rendered unenforceable by reason of a matter insured against by this policy.

452 c. If the Company pursues its rights under Condition 5.b. and is unsuccessful in establishing the Title or
 453 the lien of the Insured Mortgage, as insured:
 454
 455



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- 456 i. the Amount of Insurance will be increased by 15%; and
 457 ii. the Insured Claimant may, by written notice given to the Company, elect, as an alternative to
 458 the dates set forth in Condition 8.b., to use either the date the settlement, action, proceeding,
 459 or other act described in Condition 5.b. is concluded or the date the notice of claim required by
 460 Condition 3 is received by the Company as the date for calculating the fair market value of the
 461 Title in Condition 8.a.iii.
 462 d. In addition to the extent of liability for loss or damage under Conditions 8.a. and 8.c., the Company will
 463 also pay the costs, attorneys' fees, and expenses incurred in accordance with Conditions 5 and 7.

9. LIMITATION OF LIABILITY

- 464 a. The Company fully performs its obligations and is not liable for any loss or damage caused to the Insured
 465 if the Company accomplishes any of the following in a reasonable manner:
 466 i. removes the alleged defect, lien, encumbrance, adverse claim, or other matter;
 467 ii. cures the lack of a right of access to and from the Land;
 468 iii. cures the claim of Unmarketable Title; or
 469 iv. establishes the lien of the Insured Mortgage,
 470 all as insured. The Company may do so by any method, including litigation and the completion of any
 471 appeals.
 472 b. The Company is not liable for loss or damage arising out of any litigation, including litigation by the
 473 Company or with the Company's consent, until a court of competent jurisdiction makes a final,
 474 non-appealable determination adverse to the Title or to the lien of the Insured Mortgage.
 475 c. The Company is not liable for loss or damage to the Insured for liability voluntarily assumed by the
 476 Insured in settling any claim or suit without the prior written consent of the Company.
 477 d. An Insured Claimant must own the Indebtedness or have acquired the Title at the time that a claim under
 478 this policy is paid.
 479 e. The Company is not liable for the content of the Transaction Identification Data, if any.
 480

10. REDUCTION OR TERMINATION OF INSURANCE

- 481 a. All payments under this policy, except payments made for costs, attorneys' fees, and expenses, reduce
 482 the Amount of Insurance by the amount of the payment. However, any payment made by the Company
 483 prior to the acquisition of the Title as provided in Condition 2 does not reduce the Amount of Insurance
 484 afforded under this policy, except to the extent that the payment reduces the Indebtedness.
 485 b. When the Title is acquired by the Insured as a result of foreclosure or deed in lieu of foreclosure, the
 486 amount credited against the Indebtedness does not reduce the Amount of Insurance.
 487 c. The voluntary satisfaction or release of the Insured Mortgage terminates all liability of the Company,
 488 except as provided in Condition 2.
 489

11. PAYMENT OF LOSS

490 When liability and the extent of loss or damage are determined in accordance with the Conditions, the Company
 491 will pay the loss or damage within 30 days.
 492

12. COMPANY'S RECOVERY AND SUBROGATION RIGHTS UPON SETTLEMENT AND PAYMENT

- 493 a. **Company's Right to Recover**
 494 i. If the Company settles and pays a claim under this policy, it is subrogated and entitled to the
 495 rights and remedies of the Insured Claimant in the Title or Insured Mortgage and all other rights
 496 and remedies in respect to the claim that the Insured Claimant has against any person, entity,
 497 or property to the fullest extent permitted by law, but limited to the amount of any loss, costs,
 498 attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured
 499 Claimant must execute documents to transfer these rights and remedies to the Company. The
 500 Insured Claimant permits the Company to sue, compromise, or settle in the name of the Insured
 501 Claimant and to use the name of the Insured Claimant in any transaction or litigation involving
 502 these rights and remedies.
 503 ii. If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the
 504 Company defers the exercise of its subrogation right until after the Insured Claimant fully
 505 recovers its loss.
 506 b. **Company's Subrogation Rights against Obligors**
 507 The Company's subrogation right includes the Insured's rights against Obligors including the Insured's
 508 rights to repayment under a note, indemnity, guaranty, warranty, insurance policy, or bond, despite any
 509 provision in those instruments that addresses recovery or subrogation rights. An Obligor cannot avoid
 510 the Company's subrogation right by acquiring the Indebtedness as a result of an indemnity, guaranty,
 511

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512 warranty, insurance policy, or bond, or in any other manner. The Obligor is not an Insured under this
 513 policy. The Company may not exercise its rights under Condition 12.b. against a Government Mortgage
 514 Agency or Instrumentality.
 515 c. **Insured's Rights and Limitations**
 516 i. The owner of the Indebtedness may release or substitute the personal liability of any debtor or
 517 guarantor, extend or otherwise modify the terms of payment, release a portion of the Title from
 518 the lien of the Insured Mortgage, or release any collateral security for the Indebtedness, if the
 519 action does not affect the enforceability or priority of the lien of the Insured Mortgage.
 520 ii. If the Insured exercises a right provided in Condition 12.c.i. but has Knowledge of any claim
 521 adverse to the Title or the lien of the Insured Mortgage insured against by this policy, the
 522 Company is required to pay only that part of the loss insured against by this policy that exceeds
 523 the amount, if any, lost to the Company by reason of the impairment by the Insured Claimant of
 524 the Company's subrogation right.

525 **13. POLICY ENTIRE CONTRACT**

526 a. This policy together with all endorsements, if any, issued by the Company is the entire policy and contract
 527 between the Insured and the Company. In interpreting any provision of this policy, this policy will be
 528 construed as a whole. This policy and any endorsement to this policy may be evidenced by electronic
 529 means authorized by law.
 530 b. Any amendment of this policy must be by a written endorsement issued by the Company. To the extent
 531 any term or provision of an endorsement is inconsistent with any term or provision of this policy, the term
 532 or provision of the endorsement controls. Unless the endorsement expressly states, it does not:
 533 i. modify any prior endorsement,
 534 ii. extend the Date of Policy,
 535 iii. insure against loss or damage exceeding the Amount of Insurance, or
 536 iv. increase the Amount of Insurance.

537 **14. SEVERABILITY**

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

541 **15. CHOICE OF LAW AND CHOICE OF FORUM**

542 a. **Choice of Law**
 543 The Company has underwritten the risks covered by this policy and determined the premium charged in
 544 reliance upon the law affecting interests in real property and the law applicable to the interpretation,
 545 rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.
 546 Any court or arbitrator must apply the law of the jurisdiction where the Land is located to determine the
 547 validity of claims against the Title or the lien of the Insured Mortgage and to interpret and enforce the
 548 terms of this policy. In neither case may the court or arbitrator apply conflicts of law principles to
 549 determine the applicable law.
 550 b. **Choice of Forum**
 551 Any litigation or other proceeding brought by the Insured against the Company must be filed only in a
 552 state or federal court within the United States of America or its territories having appropriate jurisdiction.

553 **16. NOTICES**

554 Any notice of claim and any other notice or statement in writing required to be given to the Company under this
 555 policy must be given to the Company at: _____ (fill in).

556 **17. CLASS ACTION**

557 ALL CLAIMS AND DISPUTES ARISING OUT OF OR RELATING TO THIS POLICY, INCLUDING ANY SERVICE
 558 OR OTHER MATTER IN CONNECTION WITH ISSUING THIS POLICY, ANY BREACH OF A POLICY
 559 PROVISION, OR ANY OTHER CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THE TRANSACTION
 560 GIVING RISE TO THIS POLICY, MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY SERVE
 561 AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS OR REPRESENTATIVE PROCEEDING.

562 **[18. ARBITRATION**

563 a. All claims and disputes arising out of or relating to this policy, including any service or other matter in
 564 connection with issuing this policy, any breach of a policy provision, or any other claim or dispute arising
 565 out of or relating to the transaction giving rise to this policy, may be resolved by arbitration. If the Amount
 566 of Insurance is \$2,000,000 or less, any claim or dispute may be submitted to binding arbitration at the

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- 567 election of either the Company or the Insured. If the Amount of Insurance is greater than \$2,000,000,
 568 any claim or dispute may be submitted to binding arbitration only when agreed to by both the Company
 569 and the Insured. Arbitration must be conducted pursuant to the Title Insurance Arbitration Rules of the
 570 American Land Title Association (“ALTA Rules”). The ALTA Rules are available online at
 571 www.alta.org/arbitration. The ALTA Rules incorporate, as appropriate to a particular dispute, the
 572 Consumer Arbitration Rules and Commercial Arbitration Rules of the American Arbitration Association
 573 (“AAA Rules”). The AAA Rules are available online at www.adr.org.
- 574 b. ALL CLAIMS AND DISPUTES MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY
 575 SERVE AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS OR REPRESENTATIVE
 576 PROCEEDING IN ANY ARBITRATION GOVERNED BY CONDITION 18. The arbitrator does not have
 577 authority to conduct any class action arbitration or arbitration involving joint or consolidated claims under
 578 any circumstance.
- 579 c. **If there is a final judicial determination that a request for particular relief cannot be arbitrated in
 580 accordance with this Condition 18, then only that request for particular relief may be brought in
 581 court. All other requests for relief remain subject to this Condition 18.**
- 582 d. [The Company will pay all AAA filing, administration, and arbitrator fees of the consumer when the
 583 arbitration seeks relief of \$100,000 or less. Other fees][Fees] will be allocated in accordance with the
 584 applicable AAA Rules. The results of arbitration will be binding upon the parties. The arbitrator may
 585 consider, but is not bound by, rulings in prior arbitrations involving different parties. The arbitrator is
 586 bound by rulings in prior arbitrations involving the same parties to the extent required by law. The
 587 arbitrator must issue a written decision sufficient to explain the findings and conclusions on which the
 588 award is based. Judgment upon the award rendered by the arbitrator may be entered in any court of
 589 competent jurisdiction.]

590
591
592**NOTE:** Bracketed [] material optional