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Form No. 1056.06
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ALTA Loan Policy (6-17-06)
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1100301P050600 ¶
 ¶
Policy
Page 1 ¶
Policy Number: 5849141
¶
LOAN POLICY OF TITLE INSURANCE
¶
ISSUED BY ¶
First American Title
Insurance Company ¶
Any notice of claim and any
other notice or statement in writing required to be given to
the Company under this policy must be given to
¶
the Company at the address shown in Section 17
of the Conditions. ¶
COVERED RISKS
¶
SUBJECT TO THE EXCLUSIONS FROM
COVERAGE, THE EXCEPTIONS FROM
¶
COVERAGE CONTAINED IN SCHEDULE
B, AND THE CONDITIONS, FIRST
¶
AMERICAN TITLE INSURANCE COMPANY,
a Nebraska corporation (the ¶
"Company") insures
as of Date of Policy and, to the extent stated in Covered
¶
Risks 11, 13, and 14, after Date of Policy, against
loss or damage, not exceeding ¶
the Amount of
Insurance, sustained or incurred by the Insured by reason of:
¶
1. Title being vested other than as stated in
Schedule A. ¶
2. Any defect in or lien or
encumbrance on the Title. This Covered Risk
¶
includes but is not limited to insurance against
loss from ¶
 (a) A defect in the Title caused by
¶
 (i) forgery, fraud, undue influence, duress,
incompetency, incapacity, ¶
or impersonation;
¶
 (ii) failure of any person or Entity to have
authorized a transfer or ¶
conveyance;
¶
 (iii) a document affecting Title not
properly created, executed, ¶
witnessed, sealed,
acknowledged, notarized, or delivered; ¶
 (iv)
failure to perform those acts necessary to create a
document by ¶
electronic means authorized by
law; ¶
 (v) a document executed under a
falsified, expired, or otherwise ¶
invalid power of

attorney; ¶
 (vi) a document not properly filed, recorded, or indexed in the Public ¶
Records including failure to perform those acts by electronic ¶
means authorized by law; or ¶
 (vii) a defective judicial or administrative proceeding. ¶
 (b) The lien of real estate taxes or assessments imposed on the Title by a ¶
governmental authority due or payable, but unpaid. ¶
 (c) Any encroachment, encumbrance, violation, variation, or adverse ¶
circumstance affecting the Title that would be disclosed by an accurate ¶
and complete land survey of the Land. The term "encroachment" ¶
includes encroachments of existing improvements located on the Land ¶
onto adjoining land, and encroachments onto the Land of existing ¶
improvements located on adjoining land. ¶
3. Unmarketable Title. ¶
4. No right of access to and from the Land. ¶
5. The violation or enforcement of any law, ordinance, permit, or governmental ¶
regulation (including those relating to building and zoning) restricting, ¶
regulating, prohibiting, or relating to ¶
 (a) the occupancy, use, or enjoyment of the Land; ¶
 (b) the character, dimensions, or location of any improvement erected on ¶
the Land; ¶
 (c) the subdivision of land; or ¶
 (d) environmental protection ¶
 if a notice, describing any part of the Land, is recorded in the Public Records ¶
setting forth the violation or intention <del style="background:#ffe6e6;"> to enforce, but only to the extent of ¶
<ins style="background:#e6ffe6;"> </ins>the violation or enforcement referred to in that notice. ¶
6. An enforcement action based on the exercise of a governmental police ¶
power not covered by Covered Risk 5 if a notice of the enforcement action, ¶
describing any part of the Land, is recorded in the Public Records, but only ¶
to the extent of the

enforcement referred to in that notice. ¶
7. The exercise of the rights of eminent domain if a notice of the exercise, ¶
describing any part of the Land, is recorded in the Public Records. ¶
8. Any taking by a governmental body that has occurred and is binding on the ¶
rights of a purchaser for value without Knowledge. ¶
9. The invalidity or unenforceability of the lien of the Insured Mortgage upon ¶
the Title. This Covered Risk includes but is not limited to insurance against ¶
loss from any of the following impairing the lien of the Insured Mortgage ¶
(a) forgery, fraud, undue influence, duress, incompetency, incapacity, or ¶
impersonation; ¶
(b) failure of any person or Entity to have authorized a transfer or ¶
conveyance; ¶
(c) the Insured Mortgage not being properly created, executed, witnessed, ¶
sealed, acknowledged, notarized, or delivered; ¶
(d) failure to perform those acts necessary to create a document by ¶
electronic means authorized by law; ¶
(e) a document executed under a falsified, expired, or otherwise invalid ¶
power of attorney; ¶
(f) a document not properly filed, recorded, or indexed in the Public ¶
Records including failure to perform those acts by electronic means ¶
authorized by law; or ¶
(g) a defective judicial or administrative proceeding. ¶
10. The lack of priority of the lien of the Insured Mortgage upon the Title over ¶
any other lien or encumbrance. ¶
11. The lack of priority of the lien of the Insured Mortgage upon the Title ¶
(a) as security for each and every advance of proceeds of the loan ¶
secured by the Insured Mortgage over any statutory lien for services, ¶
labor, or material arising from construction of an improvement or work ¶
related to the Land when the improvement or work is either ¶
(i) contracted for or commenced on or before Date of Policy; or ¶
(ii) contracted

for, commenced, or continued after Date of Policy if
¶
the construction is financed, in whole or in part, by proceeds of ¶
the loan secured by the Insured Mortgage that the Insured has
¶
advanced or is obligated on Date of Policy to advance; and ¶
 (b) over the lien of any assessments for street improvements under
¶
construction or completed at Date of Policy.
¶
12. The invalidity or unenforceability of any assignment of the Insured ¶
Mortgage, provided the assignment is shown in Schedule A, or the failure of ¶
the assignment shown in Schedule A to vest title to the Insured Mortgage ¶
in the named Insured assignee free and clear of all liens. ¶
13. The invalidity, unenforceability, lack of priority, or avoidance of the lien <del style="background:#ffe6e6;"> of ¶
the Insured Mortgage upon the Title ¶
 (a) resulting from the avoidance in whole or in part, or from a court order ¶
providing an alternative remedy, of any transfer of all or any part of ¶
the title to or any interest in the Land occurring prior to the ¶
transaction creating the lien of the Insured Mortgage because that
¶
prior transfer constituted a fraudulent or preferential transfer under ¶
federal bankruptcy, state insolvency, or similar creditors' rights laws;
¶
or ¶
 (b) because the Insured Mortgage constitutes a preferential transfer under ¶
federal bankruptcy, state insolvency, or similar creditors' rights laws by ¶
reason of the failure of its recording in the Public Records ¶
 (i) to be timely, or ¶
 (ii) to impart notice of its existence to a purchaser for value or to a ¶
judgment or lien creditor. ¶
14. Any defect in or lien or encumbrance on the Title or other matter included ¶
in Covered Risks 1 through 13 that has been created or attached or has
¶
been filed or recorded in the Public Records

subsequent to Date of Policy ¶and prior to the recording of the Insured Mortgage in the Public Records. ¶
¶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. ¶
¶
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¶Form No. 1056.06
¶ALTA Loan Policy (6-17-06) ¶Policy Page 2 ¶
¶Policy Number: 5849141 ¶
¶
¶First American Title Insurance Company ¶
EXCLUSIONS FROM COVERAGE
¶The following matters are expressly excluded from the coverage of this policy, and ¶the Company will not pay loss or damage, costs, attorneys' fees, or expenses that ¶arise by reason of: ¶1.
(a) Any law, ordinance, permit, or governmental regulation (including those ¶relating to building and zoning) restricting, regulating, prohibiting, or relating ¶to ¶ (i) the occupancy, use, or enjoyment of the Land; ¶ (ii) the character, dimensions, or location of any improvement erected ¶on the Land; ¶ (iii) the subdivision of land; or ¶ (iv) environmental protection; ¶or the effect of any violation of these laws, ordinances, or governmental ¶regulations. This Exclusion 1(a) does not modify or limit the coverage ¶provided under Covered Risk 5. ¶ (b) Any governmental police power. This Exclusion 1(b) does not modify or ¶limit the coverage provided under Covered Risk 6. ¶2. Rights of eminent domain. This Exclusion does not modify or limit the ¶coverage provided under Covered Risk 7 or 8. ¶3. Defects, liens, encumbrances, adverse claims, or other matters ¶ (a) created, suffered, assumed, or agreed to by the Insured Claimant; ¶ (b) not Known to the Company, not recorded in the Public Records

at Date of ¶
Policy, but Known to the Insured Claimant and not disclosed in writing to the ¶
Company by the Insured Claimant prior to the date the Insured Claimant ¶
became an Insured under this policy; ¶
 (c) resulting in no loss or damage to the Insured Claimant; ¶
 (d) attaching or created subsequent to Date of Policy (however, this does not ¶
modify or limit the coverage provided under Covered Risk 11, 13, or 14); or ¶
 (e) resulting in loss or damage that would not have been sustained if the ¶
Insured Claimant had paid value for the Insured Mortgage. ¶
4. Unenforceability of the lien of the Insured Mortgage because of the inability or ¶
failure of an Insured to comply with applicable doing-business laws of the ¶
state where the Land is situated. ¶
5. Invalidity or unenforceability in whole or in part of the lien of the Insured ¶
Mortgage that arises out of the transaction evidenced by the Insured ¶
Mortgage and is based upon usury or any consumer credit protection or truth-¶
in-lending law. ¶
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, ¶
or similar creditors' rights laws, that the transaction creating the lien of the ¶
Insured Mortgage, is ¶
 (a) a fraudulent conveyance or fraudulent transfer, or ¶
 (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of ¶
this policy. ¶
7. Any lien on the Title for real estate taxes or assessments imposed by ¶
governmental authority and created or attaching between Date of Policy and ¶
the date of recording of the Insured Mortgage in the Public Records. This ¶
Exclusion does not modify or limit the coverage provided under Covered Risk ¶
11(b). ¶
 ¶
CONDITIONS ¶
1. DEFINITION OF TERMS ¶
The following terms when used in this policy mean: ¶
 (a) "Amount of

Insurance": The amount stated in Schedule A, as may be
increased or decreased by endorsement to this policy, increased by Section 8(b) or decreased by Section 10 of these Conditions. (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A. (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity. (d) "Indebtedness": The obligation secured by the Insured Mortgage including one evidenced by electronic means authorized by law, and if that obligation is the payment of a debt, the Indebtedness is the sum of (i) the amount of the principal disbursed as of Date of Policy; (ii) the amount of the principal disbursed subsequent to Date of Policy; (iii) the construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the Land or related to the Land that the Insured was and continued to be obligated to advance at Date of Policy and at the date of the advance; (iv) interest on the loan; (v) the prepayment premiums, exit fees, and other similar fees or penalties allowed by law; (vi) the expenses of foreclosure and any other costs of enforcement; (vii) the amounts advanced to assure compliance with laws or to protect the lien or the priority of the lien of the Insured Mortgage before the acquisition of the estate or interest in the Title; (viii) the amounts to pay taxes and insurance; and (ix) the reasonable amounts expended to prevent deterioration of improvements; but the Indebtedness is reduced by the total of all payments and by any amount forgiven by an Insured. (e) "Insured": The Insured named in Schedule A. (i) The term "Insured" also includes

¶
 (A) the owner of the Indebtedness and each successor in ownership ¶
of the Indebtedness, whether the owner or successor owns the ¶
Indebtedness for its own account or as a trustee or other fiduciary, ¶
except a successor who is an obligor under the provisions of Section ¶
12(c) of these Conditions; ¶
 (B) the person or Entity who has “control” of the “transferable ¶
record,” if the Indebtedness is evidenced by a “transferable record,” ¶
as these terms are defined by applicable electronic transactions law; ¶
 (C) successors to an Insured by dissolution, merger, consolidation, ¶
distribution, or reorganization; ¶
 (D) successors to an Insured by its conversion to another kind of ¶
Entity; ¶
 (E) a grantee of an Insured under a deed delivered without payment ¶
of actual valuable consideration conveying the Title ¶
 (1) if the stock, shares, memberships, or other equity interests ¶
of the grantee are wholly-owned by the named Insured, ¶
 (2) if the grantee wholly owns the named Insured, or ¶
 (3) if the grantee is wholly-owned by an affiliated Entity of the ¶
named Insured, provided the affiliated Entity and the named ¶
Insured are both wholly-owned by the same person or Entity; ¶
 (F) any government agency or instrumentality that is an insurer or ¶
guarantor under an insurance contract or guaranty insuring or ¶
guaranteeing the Indebtedness secured by the Insured Mortgage, or ¶
any part of it, whether named as an Insured or not; ¶
 (ii) With regard to (A), (B), (C), (D) , and (E) reserving, however, all ¶
rights and defenses as to any successor that the Company would have ¶
had against any predecessor Insured, unless the successor acquired the ¶
Indebtedness as a purchaser for value without

Knowledge of the asserted ¶
defect, lien, encumbrance, or other matter insured against by this policy. ¶
 (f) "Insured Claimant": An Insured claiming loss or damage. ¶
 (g) "Insured Mortgage": The Mortgage described in paragraph 4 of Schedule ¶
A. ¶
 (h) "Knowledge" or "Known": Actual knowledge, not constructive knowledge ¶
or notice that may be imputed to an Insured by reason of the Public Records ¶
or any other records that impart constructive notice of matters affecting the ¶
Title. ¶
 (i) "Land": The land described in Schedule A, and affixed improvements that ¶
by law constitute real property. The term "Land" does not include any property ¶
beyond the lines of the area described in Schedule A, nor any right, title, ¶
interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ¶
ways, or waterways, but this does not modify or limit the extent that a right of ¶
access to and from the Land is insured by this policy. ¶
 (j) "Mortgage": Mortgage, deed of trust, trust deed, or other security ¶
instrument, including one evidenced by electronic means authorized by law. ¶
 (k) "Public Records": Records established under state statutes at Date of ¶
Policy for the purpose of imparting constructive notice of matters relating to ¶
real property to purchasers for value and without Knowledge. With respect to ¶
Covered Risk 5(d), "Public Records" shall also include environmental protection ¶
liens filed in the records of the clerk of the United States District Court for the ¶
district where the Land is located. ¶
 (l) "Title": The estate or interest described in Schedule A. ¶
 (m) "Unmarketable Title": Title affected by an alleged or apparent matter that ¶
would permit a prospective purchaser or lessee of the Title or lender on the ¶
Title or a prospective purchaser of the Insured Mortgage to be released from ¶
the obligation to

purchase, lease, or lend if there is a contractual condition ¶
requiring the delivery of marketable title.

¶
 ¶
2. CONTINUATION OF INSURANCE

¶
 The coverage of this policy shall continue in force as of Date of Policy in favor ¶
 of an Insured after acquisition of the Title by an Insured or after conveyance ¶
 by an Insured, but only so long as the Insured retains an estate or interest in ¶
 the Land, or holds an obligation secured by a purchase money Mortgage given ¶
 by a purchaser from the Insured, or only so long as the Insured shall have ¶
 liability by reason of warranties in any transfer or conveyance of the Title. This ¶
 policy shall not continue in force in favor of any purchaser from the Insured of ¶
 either (i) an estate or interest in the Land, or (ii) an obligation secured by a ¶
 purchase money Mortgage given to the Insured. ¶
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Form No. 1056.06
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ALTA Loan Policy (6-17-06) ¶
Policy Page 3 ¶
Policy Number: 5849141 ¶
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 ¶
First American Title Insurance Company ¶
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 5(a) of these Conditions, (ii) in case ¶
 Knowledge shall come to an Insured of any claim of title or interest that is ¶
 adverse to the Title or the lien of the Insured Mortgage, as insured, and that ¶
 might cause loss or damage for which the Company may be liable by virtue of ¶
 this policy, or (iii) if the Title or the lien of the Insured Mortgage, as insured, ¶
 is rejected as Unmarketable Title. If the Company is prejudiced by the failure ¶
 of the Insured Claimant to provide prompt notice, the Company's liability to ¶
 the Insured Claimant under the policy shall be reduced to the extent of the ¶
 prejudice.

¶
 ¶
4. PROOF OF LOSS ¶
 In the event the Company is unable to determine the amount of loss or ¶
 damage, the Company may, at its option, require as a condition of payment ¶
 that the Insured Claimant furnish a signed proof of loss. The proof of loss ¶
 must describe the defect, lien, encumbrance, or other matter insured <ins style="background:#e6ffe6;"> </ins>against ¶
 by this policy that constitutes the basis of loss or damage and shall state, to ¶
 the extent possible, the basis of calculating the amount of the loss or damage. ¶
 ¶
5. DEFENSE AND PROSECUTION OF ACTIONS ¶
 (a) Upon written request by the Insured, and subject to the options ¶
 contained in Section 7 of these Conditions, the Company, at its own cost and ¶
 without unreasonable delay, shall provide for the defense of an Insured in ¶
 litigation in which any third party asserts a claim covered by this policy ¶
 adverse to the Insured. This obligation is limited to only those stated causes ¶
 of action alleging matters insured against by this policy. The Company shall ¶
 have the right to select counsel of its choice (subject to the right of the ¶
 Insured to object for reasonable cause) to represent the Insured as to those ¶
 stated causes of action. It shall <ins style="background:#e6ffe6;"> </ins>not be liable for and will not pay the fees of ¶
 any other counsel. The Company will not pay any fees, costs, or expenses ¶
 incurred by the Insured in the defense of those causes of action that allege ¶
 matters not insured against by this policy. ¶
 (b) The Company shall have the right, in addition to the options contained in ¶
 Section 7 of these Conditions, at its own cost, to institute and prosecute any ¶
 action or proceeding or to do any other act that in its opinion may be ¶
 necessary or

desirable to establish the Title or the lien of the Insured
¶
Mortgage, as insured, or to prevent or reduce
loss or damage to the Insured. ¶
The Company
may take any appropriate action under the terms of this
policy, ¶
whether or not it shall be liable to the
Insured. The exercise of these rights ¶
shall not
be an admission of liability or waiver of any provision of this
policy. If ¶
the Company exercises its rights
under this subsection, it must do so ¶
diligently.
¶
(c) Whenever the Company brings an action or
asserts a defense as required ¶
or permitted by
this policy, the Company may pursue the litigation to a
final ¶
determination by a court of competent
jurisdiction, and it expressly reserves ¶
the right,
in its sole discretion, to appeal any adverse judgment or
order. ¶
 ¶
6. DUTY OF INSURED
CLAIMANT TO COOPERATE ¶
(a) In all cases
where this policy permits or requires the Company to
¶
prosecute or provide for the defense of any
action or proceeding and any ¶
appeals, the
Insured shall secure to the Company the right to so
prosecute or ¶
provide defense in the action </
span><del style="background:#ffe6e6;"> or
proceeding, including the right to <del
style="background:#ffe6e6;"> use, at its
¶
option, the name of the Insured for this purpose.
Whenever requested by the ¶
Company, the
Insured, at the Company's expense, shall give the Company
all ¶
reasonable aid (i) in securing evidence,
obtaining witnesses, prosecuting or ¶
defending
the action or proceeding, or effecting settlement, and (ii)
in any ¶
other lawful act that in the opinion of
the Company may be necessary or ¶
desirable to
establish the Title, the lien of the Insured Mortgage, or any
other ¶
matter as insured. If the Company is
prejudiced by the failure of the Insured ¶
to furnish
the required cooperation, the Company's obligations to the

Insured ¶
under the policy shall terminate, including any liability or obligation to defend, ¶
prosecute, or continue any litigation, with regard to the matter or matters ¶
requiring such cooperation. ¶

(b) The Company may reasonably require the Insured Claimant to submit to ¶
examination under oath by any authorized representative of the Company and ¶
to produce for examination, inspection, and copying, at such reasonable times ¶
and places as may be designated by the authorized representative of the ¶
Company, all records, in whatever medium maintained, including books, ¶
ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, ¶
and videos whether bearing a date before or after Date of Policy, that ¶
reasonably pertain to the loss or damage.

Further, if requested by any ¶
authorized representative of the Company, the Insured Claimant shall grant its ¶
permission, in writing, for any authorized representative of the Company to ¶
examine, inspect, and copy all of these records in the custody or control of a ¶
third party that reasonably pertain to the loss or damage. ¶
All information designated as confidential by the Insured Claimant provided to ¶
the Company pursuant to this Section shall not be disclosed to others unless, in ¶
the reasonable judgment of the Company, it is necessary in the administration ¶
of the claim.

Failure of the Insured Claimant to submit for examination under ¶
oath, produce any reasonably requested information, or grant permission to ¶
secure reasonably necessary information from third parties as required in this ¶
subsection, unless prohibited by law or governmental regulation, shall ¶
terminate any liability of the Company under this policy as to that claim. ¶
 ¶
7.

OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS;

TERMINATION OF ¶
LIABILITY ¶
 In case of a claim under this policy, the Company shall have the following ¶
 additional options:

¶
 (a) To Pay or Tender Payment of the Amount of Insurance or to Purchase the ¶
 Indebtedness.

¶
 (i) To pay or tender payment of the Amount of Insurance under this ¶
policy together with any costs, attorneys' fees, and expenses incurred by ¶
the Insured Claimant that were authorized by the Company up to the time ¶
of payment or tender of payment and that the Company is obligated to ¶
pay; or ¶
 (ii) To purchase the Indebtedness for the amount of the Indebtedness on ¶
the date of purchase, together with any costs, attorneys' fees, and ¶
expenses incurred by the Insured Claimant that were authorized by the ¶
Company up to the time of purchase and that the Company is obligated to ¶
pay. ¶
 When the Company purchases the Indebtedness, the Insured shall ¶
transfer, assign, and convey to the Company the Indebtedness and the ¶
Insured Mortgage, together with any collateral security. ¶
 Upon the exercise by the Company of either of the options provided for in ¶
subsections (a)(i) or (ii), all liability and obligations of the Company to the ¶
Insured under this policy, other than to make the payment required in ¶
those subsections, shall terminate, including any liability or obligation to ¶
defend, prosecute, or continue any litigation. ¶
 (b) To Pay or Otherwise Settle With Parties Other Than the Insured or With ¶
 the Insured Claimant.

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

¶
of payment and that the Company is obligated to pay; or ¶
 (ii) to pay or otherwise settle with the Insured Claimant the loss or ¶
damage provided for under this policy, together with any costs, attorneys' ¶
fees, and expenses incurred by the Insured Claimant that were authorized ¶
by the Company up to the time of payment and that the Company is ¶
obligated to pay. ¶
 Upon the exercise by the Company of either of the options provided for in ¶
subsections (b)(i) or (ii), the Company's obligations to the Insured under ¶
this policy for the claimed loss or damage, other than the payments ¶
required to be made, shall terminate, including any liability or obligation to ¶
defend, prosecute, or continue any litigation. ¶
 ¶
8.

DETERMINATION AND EXTENT OF LIABILITY ¶

This policy is a contract of indemnity against actual monetary loss or damage ¶
 sustained <ins style="background:#e6ffe6;"> </ins>or <ins style="background:#e6ffe6;"> </ins>incurred <ins style="background:#e6ffe6;"> </ins>by <ins style="background:#e6ffe6;"> </ins>the <ins style="background:#e6ffe6;"> </ins>Insured <ins style="background:#e6ffe6;"> </ins>Claimant who <ins style="background:#e6ffe6;"> </ins>has <ins style="background:#e6ffe6;"> </ins>suffered <ins style="background:#e6ffe6;"> </ins>loss <ins style="background:#e6ffe6;"> </ins>or <ins style="background:#e6ffe6;"> </ins>¶
</ins>damage<del style="background:#ffe6e6;">¶
 by reason of matters insured against by this policy. ¶
(a) The extent of liability of the Company for loss or damage under this policy ¶
shall not exceed the least of ¶
 (i) the Amount of Insurance, ¶
 (ii) the

Indebtedness, ¶
 (iii) the difference between the value of the Title as insured and the value ¶
of the Title subject to the risk insured against by this policy, or ¶
 (iv) if a government agency or instrumentality is the Insured Claimant, ¶
the amount it paid in the acquisition of the Title or the Insured Mortgage ¶
in satisfaction of its insurance contract or guaranty. ¶
 (b) If the Company pursues its rights under Section 5 of these Conditions and ¶
 is unsuccessful in establishing the Title or the lien of the Insured ¶
 Mortgage, as insured, ¶
 (i) the Amount of Insurance shall be increased by 10%, and ¶
 (ii) the Insured Claimant shall have the right to have the loss or damage ¶
determined either as of the date the claim was made by the Insured ¶
Claimant or as of the date it is settled and paid. ¶
 (c) In the event the Insured has acquired the Title in the manner described in ¶
Section 2 of these Conditions or has conveyed the Title, then the extent of ¶
liability of the Company shall continue as set forth in Section 8(a) of these ¶
Conditions. ¶
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First American Title Insurance Company ¶
 (d) In addition to the extent of liability under (a), (b), and (c), the Company ¶
will also pay those costs, attorneys' fees, and expenses incurred in accordance ¶
with Sections 5 and 7 of these Conditions. ¶
 ¶
9. LIMITATION OF LIABILITY ¶
 (a) If the Company establishes the Title, or removes the alleged defect, lien, ¶
or encumbrance, or cures the lack of a right of access to or from the Land, or ¶
cures the claim of Unmarketable Title, or establishes the lien of the Insured ¶
Mortgage, all as insured, in a reasonably diligent manner by any method,

¶
including litigation and the completion of any appeals, it shall have fully ¶
performed its obligations with respect to that matter and shall not be liable for ¶
any loss or damage caused to the Insured.

¶
 (b) In the event of any litigation, including litigation by the Company or with ¶
the Company's consent, the Company shall have no liability for loss or damage ¶
until there has been a final determination by a court of competent jurisdiction, ¶
and disposition of all appeals, adverse to the Title or to the lien of the Insured ¶
Mortgage, as insured. ¶
 (c) The Company shall not be liable for loss or damage to the Insured for ¶
liability voluntarily assumed by the Insured in settling any claim or suit without ¶
the prior written consent of the Company.

¶
 ¶
10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF ¶
LIABILITY ¶
 (a) All payments under this policy, except payments made for costs, ¶
attorneys' fees, and expenses, shall reduce the Amount of Insurance by the ¶
amount of the payment. However, any payments made prior to the acquisition ¶
of Title as provided in Section 2 of these Conditions shall not reduce the ¶
Amount of Insurance afforded under this policy except to the extent that the ¶
payments reduce the Indebtedness.

¶
 (b) The voluntary satisfaction or release of the Insured Mortgage shall ¶
terminate all liability of the Company except as provided in Section 2 of these ¶
Conditions. ¶
 ¶
11. PAYMENT OF LOSS ¶
 When liability and the extent of loss or damage have been definitely fixed in ¶
accordance with these Conditions, the payment shall be made within 30 days. ¶
 ¶
12. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT ¶
 (a) The Company's Right to Recover ¶
 Whenever the Company shall have

settled and paid a claim under this policy, it ¶
shall be subrogated and entitled to the rights of the Insured Claimant in the ¶
Title or Insured Mortgage and all other rights and remedies in respect to the ¶
claim that the Insured Claimant has against any person or property, to the ¶
extent of the amount of any loss, costs, attorneys' fees, and expenses paid by ¶
the Company. If requested by the Company, the Insured Claimant shall ¶
execute documents to evidence the transfer to the Company of these rights ¶
and remedies. The Insured Claimant shall permit the Company to sue, ¶
compromise, or settle in the name of the Insured Claimant and to use the ¶
name of the Insured Claimant in any transaction or litigation involving these ¶
rights and remedies. ¶
If a payment on account of a claim does not fully cover the loss of the Insured ¶
Claimant, the Company shall defer the exercise of its right to recover until ¶
after the Insured Claimant shall have recovered its loss. ¶
(b) The Insured's Rights and Limitations ¶
(i) The owner of the Indebtedness may release or substitute the ¶
personal liability of any debtor or guarantor, extend or otherwise modify ¶
the terms of payment, release a portion of the Title from the lien of the ¶
Insured Mortgage, or release any collateral security for the Indebtedness, ¶
if it does not affect the enforceability or priority of the lien of the Insured ¶
Mortgage. ¶
(ii) If the Insured exercises a right provided in (b)(i), but has Knowledge ¶
of any claim adverse to the Title or the lien of the Insured Mortgage ¶
insured against by this policy, the Company shall be required to pay only ¶
that part of any losses insured against by this policy that 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. ¶

(c) The Company's Rights Against Noninsured Obligors
¶
The Company's right of subrogation includes
the Insured's rights against ¶
noninsured obligors
including the rights of the Insured to indemnities, ¶

guaranties, other policies of insurance, or bonds,
notwithstanding any terms or ¶
conditions
contained in those instruments that address subrogation
rights. ¶
The Company's right of subrogation shall
not be avoided by acquisition of the ¶
Insured
Mortgage by an obligor (except an obligor described in
Section ¶
1(e)(i)(F) of these Conditions) who
acquires the Insured Mortgage as a result ¶
of an
indemnity, guarantee, other policy of insurance, or bond, and
the obligor ¶
will not be an Insured under this policy.
¶
¶
13. ARBITRATION ¶
Either
the Company or the Insured may demand that the claim or
controversy ¶
shall be submitted to arbitration
pursuant to the Title Insurance Arbitration Rules of
¶
the American Land Title Association ("Rules").
Except as provided in the Rules, ¶
there shall
be no joinder or consolidation with claims or
controversies of other ¶
persons. Arbitrable
matters may include, but are not limited to, any controversy
or ¶
claim <ins
style="background:#e6ffe6;"> </ins>between </
span><ins style="background:#e6ffe6;"> </ins>the </
span><ins style="background:#e6ffe6;"> </
ins>Company <ins
style="background:#e6ffe6;"> </ins>and <ins
style="background:#e6ffe6;"> </ins>the Insured </
span><ins style="background:#e6ffe6;"> </
ins>arising <ins
style="background:#e6ffe6;"> </ins>out <ins
style="background:#e6ffe6;"> </ins>of <ins
style="background:#e6ffe6;"> </ins>or <ins
style="background:#e6ffe6;"> </ins>relating </

~~to~~
~~this~~
~~¶~~
~~policy,~~
~~¶~~
~~any~~
~~service~~
~~in~~
~~connection~~
~~with~~
~~its~~
~~issuance or~~
~~the~~
~~breach~~
~~of~~
~~a~~
~~policy~~
~~¶~~
~~provision, or to~~
~~¶~~
~~any~~
~~other~~
~~controversy~~
~~or~~
~~claim~~
~~arising~~
~~out~~
~~of~~
~~the transaction~~
~~giving~~
~~rise~~
~~to this~~
~~¶~~

style="background:#e6ffe6;"> </ins>policy. All
arbitrable matters when the Amount of Insurance is </
span><del style="background:#ffe6e6;"> <ins
style="background:#e6ffe6;">¶
</ins>
\$2,000,000 or less <del
style="background:#ffe6e6;">¶
<ins
style="background:#e6ffe6;"> </ins>shall </
span><ins style="background:#e6ffe6;"> </ins>be </
span><ins style="background:#e6ffe6;"> </
ins>arbitrated <ins
style="background:#e6ffe6;"> </ins>at <ins
style="background:#e6ffe6;"> </ins>the <ins
style="background:#e6ffe6;"> </ins>option </
span><ins style="background:#e6ffe6;"> </ins>of </
span><ins style="background:#e6ffe6;"> </ins>either
<ins style="background:#e6ffe6;"> </ins>the
<ins style="background:#e6ffe6;"> </
ins>Company <ins
style="background:#e6ffe6;"> </ins>or <ins
style="background:#e6ffe6;"> </ins>the <ins
style="background:#e6ffe6;">¶
</
ins>Insured. All <ins
style="background:#e6ffe6;"> </ins>arbitrable </
span><del style="background:#ffe6e6;">¶
</
del><ins style="background:#e6ffe6;"> </ins>matters
when the Amount of Insurance is in excess of </
span><del style="background:#ffe6e6;"> <ins
style="background:#e6ffe6;">¶
</ins>
\$2,000,000 <del style="background:#ffe6e6;"> </
del>shall <del style="background:#ffe6e6;">
be <del
style="background:#ffe6e6;">¶
</
del>arbitrated only when agreed to by both </
span><del style="background:#ffe6e6;"> the
Company and the <ins
style="background:#e6ffe6;">¶
</
ins>Insured.<ins

Arbitration
¶

pursuant to this policy and under the Rules shall be binding
¶

upon

the

parties.
¶

Judgment

upon

the

award

rendered

by

the

Arbitrator(s)

may

be

entered

in

any

¶
court
of competent jurisdiction. ¶
 ¶
14.
LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE
CONTRACT ¶
 (a) This policy together with all
endorsements, if any, attached to it by the
¶
Company is the entire policy and contract
between the Insured and the ¶
Company. In
interpreting any provision of this policy, this policy shall
be ¶
construed as a whole. ¶
 (b) Any
claim of loss or damage that arises out of the status
of the Title or ¶
lien of the Insured Mortgage or
by any action asserting such claim shall be
¶
restricted to this policy. ¶
 (c) Any

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

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not

- (i) modify any of the terms and provisions of the policy,
- (ii) modify any prior endorsement,
- (iii) extend the Date of Policy, or
- (iv) increase the Amount of Insurance.

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

16. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title or the lien of the Insured Mortgage that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

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

territories having appropriate ¶
jurisdiction.
¶
 ¶
17. NOTICES, WHERE SENT
¶
 Any notice of claim and any other notice or
statement in writing required to be ¶
given to the
Company under this policy must be given to the
Company at 1 First ¶
American Way, Santa Ana,
CA 92707, Attn: Claims Department. ¶
POLICY OF
TITLE INSURANCE ¶
 ¶
 ¶

¶
¶
 ¶
Form No. 1056.06
¶
ALTA Loan Policy (6-17-06) ¶
Policy
Page 5 ¶
Policy Number: 5849141 ¶

¶
 ¶
First American Title Insurance
Company ¶
SCHEDULE A ¶
First
American Title Insurance Company ¶
Name and
Address of Title Insurance Company: ¶
First
American Title Insurance Company ¶
1 First
American Way ¶
Santa Ana, CA 92707
¶
File No.: 3809-5849141 Policy No.: 5849141
¶
 ¶
Loan No.: 2200886261
¶
Address Reference: 445 Broderick Street, San
Francisco, CA 94117 ¶
Amount of Insurance:
\$1,020,000.00 Premium: \$ 1,381.00 ¶

¶
Date of Policy: February 26, 2019 at 9:35 A.M.
¶
1. Name of Insured: ¶
 ¶
U.S.
Bank National Association, a national bank, its successors
and assigns, as their interests may ¶
appear, as
defined in the paragraph entitled "Definitions of Terms"
contained in this Policy. ¶
2. The estate or interest
in the Land that is encumbered by the Insured Mortgage is:
¶
A FEE AS TO PARCEL(S) I AND II AND AN
EASEMENT AS TO PARCEL(S) III, IV AND V ¶
3.
Title is vested in: ¶
 ¶
Daniel Eliasi a
single man and Jessica Liddle a single woman, as joint
tenants ¶
4. The Insured Mortgage, and its
assignments, if any, are described as follows: ¶

¶
Deed of Trust/Mortgage: ¶
Grantor/
Truster: Daniel Eliasi, a single man and Jessica Liddle, a

single woman as ¶
joint tenants ¶
Trustee:
Olivia Todd ¶
Grantee/Beneficiary: U.S. Bank
National Association, a national bank ¶
Original
Amount: \$1,020,000.00 ¶
Dated: February 22,
2019 ¶
Recorded: February 26, 2019
¶
Recording No.: 2019-K734849-00 ¶

¶
5. The Land referred to in this policy is described
as follows: ¶
Real property in the City of San
Francisco, County of San Francisco, State of California,
described as ¶
follows: ¶

¶
PARCEL I: ¶

¶
CONDOMINIUM UNIT NO. 445 AS SHOWN
UPON THE CONDOMINIUM PLAN RECORDED ON
¶
NOVEMBER 21, 2017, DOCUMENT NO. 2017-
K540916, IN THE OFFICE OF THE RECORDER OF THE
¶
CITY AND COUNTY OF SAN FRANCISCO,
STATE OF CALIFORNIA (REFERRED TO HEREIN AS "THE
¶
PLAN") BEING A SUBDIVISION OF THE LAND
AS SHOWN ON THAT CERTAIN MAP RECORDED ON
¶
SEPTEMBER 26, 2017 IN CONDOMINIUM MAP
BOOK 132 AT PAGE(S) 181 TO 182 (REFERRED TO
¶
HEREIN AS "THE MAP"), AND AS FURTHER
DEFINED IN THE DECLARATION OF COVENANTS,
¶
CONDITIONS AND RESTRICTIONS AND
CONDOMINIUM PLAN FOR 443-445-447 BRODERICK
¶
STREET, SAN FRANCISCO, CALIFORNIA, A
CONDOMINIUM PROJECT, RECORDED ON NOVEMBER
21, ¶
2017, DOCUMENT NO. 2017-K540916,
OFFICIAL RECORDS OF THE CITY AND COUNTY OF
SAN ¶
¶
 ¶
Form No. 1056.06
¶
ALTA Loan Policy (6-17-06) ¶
Policy
Page 6 ¶
Policy Number: 5849141 ¶

¶
 ¶
First American Title Insurance
Company ¶
FRANCISCO, STATE OF CALIFORNIA
(REFERRED TO HEREIN AS "THE DECLARATION").
¶
 ¶
EXCEPTING THEREFROM, ANY
PORTION OF THE COMMON AREA LYING WITHIN SAID

UNIT. ¶
 ¶
PARCEL II: ¶

¶
AN UNDIVIDED 33% INTEREST IN AND TO
THE COMMON AREA AS SHOWN AND DEFINED ON THE
¶
PLAN. ¶
 ¶
PARCEL III:
¶
 ¶
(A) THE EXCLUSIVE EASEMENT
TO USE THE STORAGE AREA(S) DESIGNATED S-445 ON
THE PLAN. ¶
 ¶
(B) THE EXCLUSIVE
EASEMENT TO USE THE DECK AREA(S) DESIGNATED
D-445 ON THE PLAN. ¶
 ¶
PARCEL IV:
¶
 ¶
A NONEXCLUSIVE EASEMENT
APPURTENANT TO PARCEL I ABOVE FOR SUPPORT,
REPAIR AND ¶
MAINTENANCE, AND FOR
INGRESS AND EGRESS THROUGH THE COMMON AREA
IN ACCORDANCE ¶
WITH CALIFORNIA CIVIL
CODE SECTION 4505 (A). ¶
 ¶
PARCEL
V: ¶
 ¶
ENCROACHMENT EASEMENTS
APPURTENANT TO THE UNIT IN ACCORDANCE WITH
THE ¶
PROVISIONS OF THE DECLARATION.
¶
APN: LOT: 053, BLOCK: 1205 FORMERLY A
PORTION OF LOT: 004 BLOCK: 1205 ¶
6. This
policy incorporates by reference those ALTA endorsements
selected below: ¶
 ¶
☒ 4-06
(Condominium) ¶
☐ 4.1-06 ¶
☐ 5-06
(Planned Unit Development) ¶
☐ 5.1-06
¶
☒ 6-06 (Variable Rate) ¶
☐ 6.2-06
(Variable Rate--Negative Amortization) ¶
☒
8.1-06 (Environmental Protection Lien) Paragraph b refers to
the following state ¶
statute(s): None
¶
☒ 9-06 (Restrictions, Encroachments, Minerals)
¶
☐ 13.1-06 (Leasehold Loan) ¶
☐ 14-06
(Future Advance-Priority) ¶
☐ 14.1-06 (Future
Advance-Knowledge) ¶
☐ 14.3-06 (Future
Advance-Reverse Mortgage) ¶
☐ 22-06 (Location)
The type of improvement is a Condominium, and the street
address is ¶
shown above. ¶
 ¶

¶
¶
 ¶
Form No. 1056.06
¶
ALTA Loan Policy (6-17-06) ¶
Policy

Page 7 ¶
Policy Number: 5849141 ¶
¶
¶
First American Title Insurance Company ¶
SCHEDULE B ¶
File No.: 3809-5849141 Policy No.: 5849141 ¶
¶
PART I ¶
This Policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or ¶
expenses that arise by reason of: ¶
 ¶
1. General and special taxes and assessments for the fiscal year 2019-2020, a lien not yet due or ¶
payable. ¶
2. General and special taxes for the fiscal year 2018-2019, are unsegregated at this time. ¶
3. Assessment liens, if applicable, collected with the general and special taxes, including but not limited ¶
to those disclosed by the reflection of the following on the tax roll: ¶
Community Facilities District LWEA2018TAX. ¶
 ¶
Community Facilities District SF UNIFIED SCHOOL DISTRICT CFD. ¶
 ¶
4. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 ¶
of the California Revenue and Taxation Code. ¶
5. Any easements or servitudes appearing in the public records. ¶
Affects: Common Area. ¶
 ¶
 ¶
6. The terms and provisions contained in the document entitled "NOTICE OF SPECIAL RESTRICTIONS ¶
UNDER THE PLANNING CODE" recorded December 12, 2014 as DOCUMENT NO. 2014-987489 of ¶
Official Records. ¶
7. Covenants, conditions, restrictions, easements, assessments, liens, charges, terms and provisions in ¶
the document recorded November 21, 2017 as DOCUMENT NO. 2017-540916 of Official Records, ¶
which provide that a violation thereof shall not defeat or render invalid the lien of any first mortgage ¶
or deed of trust made in good faith and for value, but deleting any covenant, condition, or restriction ¶
indicating a preference, limitation or discrimination based on race, color, religion, sex, sexual

¶
orientation, familial status, disability, handicap,
national origin, genetic information, gender, gender
¶
identity, gender expression, source of income (as
defined in California Government Code § 12955(p))
¶
or ancestry, to the extent such covenants,
conditions or restrictions violation 42 U.S.C. § 3604(c) or
¶
California Government Code § 12955. Lawful
restrictions under state and federal law on the age of
¶
occupants in senior housing or housing for older
persons shall not be construed as restrictions based
¶
on familial status. ¶
THE 443-445-447
BRODERICK STREET Homeowners Association is
referenced in the above ¶
mentioned document.
¶
 ¶
¶
 ¶
Form No.
1056.06 ¶
ALTA Loan Policy (6-17-06)
¶
Policy Page 8 ¶
Policy Number:
5849141 ¶
 ¶
 ¶
First American
Title Insurance Company ¶
SCHEDULE B
¶
File No.: 3809-5849141 Policy No.: 5849141
¶
 ¶
PART II ¶
In addition to the
matters set forth in Part I of this Schedule, the Title is subject
to the following matters, ¶
and the Company
insures against loss or damage sustained in the event that
they are not subordinate to ¶
the lien of the Insured
Mortgage: ¶
None ¶
 ¶

¶
 ¶
 ¶
 ¶
¶

¶
Form No. 1056.06 ¶
ALTA Loan Policy
(6-17-06) ¶
Policy Page 9 ¶
Policy
Number: 5849141 ¶
 ¶
 ¶
First
American Title Insurance Company
¶
ENDORSEMENT ¶

¶
Attached to Policy No. 5849141 ¶

¶
Issued by ¶
 ¶
First American
Title Insurance Company ¶
 ¶
The
Company insures against loss or damage sustained by
reason of the failure of the dimensions of the
¶
exterior boundary of COMMON AREA referred to

in Schedule A of this policy, being the exterior boundary
¶
of the project at Date of Policy, to be correctly
shown on that map recorded ON SEPTEMBER 26, 2017 IN
¶
CONDOMINIUM MAP BOOK 132 AT PAGE(S)
181 TO 182 in the office of the County Recorder of San
¶
Francisco County. ¶
 ¶
The
Company further insures against loss or damage sustained
by reason of the failure of the Title to ¶
include a
residence, within the project boundaries, which residence is
designated as UNIT NO. 445, as ¶
shown on that
map recorded ON SEPTEMBER 26, 2017 IN
CONDOMINIUM MAP BOOK 132 AT PAGE(S)
¶
181 TO 182, in the office of the County Recorder
of San Francisco County, and is known as 445 Broderick
¶
Street, San Francisco, CA 94117. ¶

¶
This endorsement is issued as part of the policy.
Except as it expressly states, it does not (i) modify any
¶
of the terms and provisions of the policy, (ii)
modify any prior endorsements, (iii) extend the Date of
¶
Policy, or (iv) increase the Amount of Insurance.
To the extent a provision of the policy or a previous
¶
endorsement is inconsistent with an express
provision of this endorsement, this endorsement controls.
¶
Otherwise, this endorsement is subject to all of
the terms and provisions of the policy and of any prior
¶
endorsements. ¶
 ¶
February
26, 2019 ¶
 ¶
CLTA Form 116.2-06
(03-09-07) ¶
ALTA - Owner or Lender