

RESIDENTIAL LIMITED COVERAGE MORTGAGE MODIFICATION POLICY

**Issued By
BLANK 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 15 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE AND THE CONDITIONS, and provided that the Land is a one-to-four family residence or condominium unit, Blank Title Insurance Company, a _____ corporation (the "Company"), insures, as of Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. The invalidity or unenforceability of the lien of the Insured's Mortgage upon the Title at Date of Policy as a result of the Modification; and
2. The loss of priority of the lien of the Insured's Mortgage, at Date of Policy, over any defects in or liens or encumbrances on the Title as a result of the Modification.

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 optional]

BLANK TITLE INSURANCE COMPANY

BY: _____
PRESIDENT

BY: _____
SECRETARY

SCHEDULE

Name and Address of Title Insurance Company:

[File No.: _____]

Policy No.:

Loan No.:

Address Reference:

Amount of Insurance: \$

[Premium: \$ _____]

Date of Policy:

[at a.m./p.m.]

1. Name of Insured:
2. Insured's Mortgage:
3. Modification:

EXCLUSIONS FROM COVERAGE

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

1. Any invalidity, unenforceability, or lack of priority of the Insured's Mortgage or the Modification. This Exclusion does not modify or limit the coverage provided under the Covered Risks.
2. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) Known to the Insured Claimant whether or not disclosed in the Public Records;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) not recorded or filed in the Public Records at Date of Policy; or
 - (e) attaching or created subsequent to Date of Policy.
3. Any usury, consumer credit protection, or truth-in-lending law.
4. The status or ownership of the Title.
5. Any claim that arises out of the transaction creating the Modification by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws that is based on:
 - (a) the Modification being deemed a fraudulent conveyance or fraudulent transfer; or
 - (b) the Modification being deemed a preferential transfer.

CONDITIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The Amount of Insurance stated in the Schedule, as decreased by Section 9(a) of these Conditions.
- (b) "Date of Policy": The Date of Policy stated in the Schedule.
- (c) "Indebtedness": The obligation secured by the Insured's Mortgage as modified by the Modification, including one evidenced by electronic means authorized by law.
- (d) "Insured": The Insured named in Item 1 of the Schedule.
 - (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 11(b) 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; and
 - (D) successors to an Insured by its conversion to another kind of entity;
 - (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured, unless the successor acquired the Indebtedness as a purchaser for value without Knowledge of any matter insured against by this policy.
- (e) "Insured Claimant": An Insured claiming loss or damage.
- (f) "Insured's Mortgage": The mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law described in Item 2 of the Schedule.
- (g) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (h) "Land": The land described in the Insured's Mortgage, and affixed improvements that by law constitute real property.
- (i) "Modification": The Modification described in Item 3 of the Schedule.
- (j) "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.
- (k) "Title": The estate or interest in the Land purported to be encumbered by the Insured's Mortgage.

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 through foreclosure of the lien of the Insured's Mortgage or deed in lieu of foreclosure.

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 of these Conditions or (ii) in case Knowledge shall come to an Insured of any claim that might cause loss or damage for which the Company may be liable by virtue of this policy. 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 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 6 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.
- (b) The Company shall have the right, in addition to the options contained in Section 6 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 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. 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's 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.

7. DETERMINATION AND EXTENT OF LIABILITY

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

- (a) The extent of liability of the Company for loss or damage under this policy shall not exceed the least of:
- (i) the Amount of Insurance,
 - (ii) the Indebtedness, or
 - (iii) the difference between the value of the Title without the matter insured against and the value of the Title subject to the matter insured against by this policy. The value of the Title shall be determined as of the date that a claim is made under this policy.
- (b) In the event the Insured has acquired the Title in the manner described in Section 2 of these Conditions then the extent of liability of the Company shall continue as set forth in Section 7(a) of these Conditions.
- (c) In addition to the extent of liability under subsections (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 6 of these Conditions.

8. LIMITATION OF LIABILITY

- (a) If the Company removes an alleged matter insured against by this policy in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations and shall not be liable for any loss or damage with respect to that matter.
- (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 Insured with respect to matters insured against by this policy.
- (c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

9. REDUCTION OF INSURANCE; TERMINATION OF LIABILITY

- (a) All payments under this policy, except payment made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.
- (b) The voluntary satisfaction or release of the Insured's Mortgage shall terminate all liability of the Company except as provided in Section 2 of these Conditions.

10. 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.

11. 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 all rights and remedies of the Insured Claimant 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 Company's Rights Against Non-insured Obligors.

The Company's right of subrogation includes the Insured's rights against non-insured 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's Mortgage by an obligor who acquires the Insured's 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.

12. 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) This policy is not an abstract of Title or a report of the condition of Title. The Company's liability for any claim of loss or damage, including any claim alleging negligence or negligent misrepresentation that arises out of any matter covered by this policy, shall be restricted to the terms and provisions of this policy.
- (c) The Company shall not be liable under this policy for any indirect, special, or consequential damages.
- (d) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person.
- (e) 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.

13. 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, and all other provisions shall remain in full force and effect.

14. 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 therefore 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 insured against by this policy 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.

15. NOTICES, WHERE SENT

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

[16. ARBITRATION

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