



TIRSA Owner's Extended Protection Policy - (TOEPP)

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TIRSA OWNER'S EXTENDED PROTECTION POLICY (TOEPP)

WHAT IS THE TOEPP POLICY?

The TOEPP Policy is an owner's title insurance policy that offers certain enhanced coverages that are *in addition* to the coverages provided by the standard ALTA 2006 Policy.

When may TOEPP be issued?

- Improved property **only**
- 1-4 family residential property **only**
- Natural person
- Living trust established by a natural person for estate planning purposes EVEN IF the trustee is not a human being.

Can an investor buy a TOEPP?

Yes, there is no requirement that the owner reside at the property.

Is there continuation of coverage under TOEPP?

Yes. Paragraph 2 of the conditions provide for the continuation of coverage. Additionally, Section 28 of the TIRSA Rate manual sets forth the conditions under which coverage will continue.

How is TOEPP different than the ALTA policy?

1. The policy amount increases 10% per year for the first 5 years
2. The policy provides limited **zoning and building coverage** (subject to deductibles) and coverage for loss resulting from the inability to use the property as a single family dwelling.
3. The policy also covers certain **post policy matters**, that are spelled out in covered risks 7, 8d, 21, 22, 23, 24.



What is the format of the TOEPP?

- Statement of coverage, with 28 covered risks
- Exclusions from coverage
- Conditions
- Schedule A includes the policy number and title number, policy amount, policy date, name of insured, statement of the interest in the land and a description of the land, AND (unlike the ALTA Owners policy) it has a schedule of deductibles and maximum liability limit for certain risks and a street address of the land
- Schedule B that includes exceptions to coverage.

What are the limits of coverage?

- The policy amount shown on Schedule A
- Deductible Amount and Maximum Dollar Limit of Liability shown on Schedule A (see covered risks 14, 15, 16 and 18)
- Exclusions from Coverage
- Exceptions on Schedule B

What are the 28 covered risks?

- Covered risks 1-6 are the same as provided in the ALTA 2006 policy.
 - Someone else owns an interest in your title (#1)
 - Someone else has rights affecting your title arising out of leases, contracts or options (#2)
 - Someone claims to have rights affecting your title arising out of forgery or impersonation (#3)
 - Someone has an easement on the land. (#4)
 - Someone has a right to limit your use of the land (#5)
 - Your title is defective (#6)



- Covered risk 7 covers any of the covered risks 1-6 occurring **after the policy date**. This is an extension of the ALTA coverage.
- Covered risk 8: Someone else has a lien on your title, including a mortgage; judgment, state or federal tax lien, or special assessment; charge by a homeowners or condominium association; lien occurring before **or after** the policy date, for labor or material furnished before the policy date.
- Covered risk 9: Someone else has an encumbrance on your title.
- Covered risk 10: Someone else claims to have rights affecting your title arising out of fraud, duress, incompetency or incapacity.
- Covered risk 11: You do not have **both actual pedestrian and vehicular** access to and from the land, **other than vehicular access to a condominium unit**, based upon a legal right. This is an extension of the ALTA coverage.
- Covered risk 12: You are forced to correct or remove a violation existing **at policy date** of any covenant, condition or restriction affecting the land, even if the covenant, condition or restriction is excepted in Schedule B, **provided the such violation of the covenant, condition or restriction is not excepted in Schedule B**. This is an extension of the ALTA coverage.
- Covered risk 13: Your title is lost or taken because of a violation of any covenant, condition or restriction, which occurred **before you acquired your title**, even if the covenant, condition or restriction is excepted in Schedule B, **provided that such violation of the covenant, condition or restriction is not excepted in Schedule B**. This is an extension of the ALTA coverage.
- Covered risk 14: Because of a violation of subdivision law or regulation existing at policy date affecting the land: a) you are unable to obtain a building permit; b) you are forced to correct or remove the violation; or c) someone else has a legal right to, and does, refuse to perform a contract to purchase the land, lease it or make a mortgage on it. (Subject to deductible and maximum liability limit). This is an extension of ALTA coverage.
- Covered risk 15: The cost of the forced removal of your structures, or any part of them, **other than boundary walls or fences**, as existing at policy date, because any portion was built



without obtaining a building permit from the proper government office. (Subject to deductible and maximum liability limit). This is an extension of the ALTA coverage.

- Covered risk 16: The cost of the forced **removal** of your structures, or any part of them, other than boundary walls or fences, as existing at policy date, because they violate an existing zoning law or zoning regulation. (subject to deductible and maximum liability limit) This is an extension of the ALTA coverage.
- Covered risk 17: You cannot **use** the land because **use** as a single family residence violates a zoning law or zoning regulation existing at policy date. This is an extension of the ALTA coverage.
- Covered risk 18: You are forced to **remove** your structures, or any part of them, as existing at policy date, because they encroach onto the neighbor's land. If the encroaching structure is a boundary wall or fence then a \$1500 deductible and a \$5k maximum company liability amount apply.
- Covered risk 19: Someone else has legal right to, and does, refuse to perform a contract to purchase the land, lease it or make a mortgage on it because your neighbors structures, or any part of them, as existing at policy date, encroach onto the land.
- Covered risk 20: You are forced to remove your existing structures because they encroach onto an easement or over a building setback line, even if the easement or building setback line is excepted in Schedule B, **provided that such encroachment is not excepted in Schedule B.**
- Covered risk 21: Your existing structures (or a replacement or modification to them after the policy date), or any part of them, *other than boundary walls or fences*, are damaged because the future exercise of a right to use the surface of the land for the extraction or development of minerals, water or any other substance, even if those rights are excepted or reserved from the description of the land or excepted in Schedule B. This is an extension of the ALTA coverage.
- Coverage risk 22: Someone else tries to enforce a discriminatory covenant, condition or restriction that they claim affects your title which is based upon race, color, religion, sex, handicap, familial status, or national origin. This is an extension of the ALTA coverage.
- Covered risk 23: A taxing authority assesses supplemental real estate taxes not previously assessed against the land for any period before the policy date because of construction or a



change of ownership or use that occurred before the policy date.

- Covered risk 24: Your neighbor builds any structures **after the policy date**, other than boundary walls or fences, which encroach onto the land. This is an extension of the ALTA coverage.
- Covered risk 25: Your title is unmarketable, which allows someone else to refuse to perform a contract to purchase the land, lease it or make a mortgage loan on it.
- Covered risk 26: A document upon which your title is based is invalid because it was not signed, sealed, delivered or recorded.
- Covered risk 27: The residence with the address shown in Schedule A is not located on the land at the policy date. This is an extension of the ALTA coverage.
- Covered risk 28: The survey map, if any, referred to in Schedule B of this policy does not show the correct location of the land according to the public records.

What is the premium for the TOEPP?

As set forth in **Section 20 of the TIRSA Rate Manual**, the premium for a TIRSA Owner's Extended Protection Policy is one hundred twenty percent (120%) of the owner's rate.

Payment of **one, non-recurring** premium includes:

1. Standard ALTA coverage
2. Automatic increase in coverage for the first 5 years
3. Limited zoning coverage
4. Coverage for post policy events and use

What endorsements are available with the TOEPP?

- A market value rider is available specifically for use with the TOEPP. The cost is 5% of the policy premium. The endorsement deletes that portion of the TOEPP that automatically increase the amount of the policy by 10% for the first five years.
- The New York endorsement is incompatible with the TOEPP. The coverage provided by the New York endorsement is already provided within the TOEPP



policy - covered risk 8d, covered risk 1 through 7 and the definition of policy date in the Conditions.

- The Waiver of Arbitration endorsement is available.

What are the exceptions or exclusions from coverage?

As with the ALTA policy, risks that are created, allowed or agreed to by the insured, whether or not they appear in the public record, are not covered. Risks that are known to the insured, but not to the insurer, at the policy date, are not covered.

In order to obtain the full benefit of the policy, a survey is recommended. If a survey is not obtained, the following exception will apply:

In the absence of a survey Company will not certify as to the location or dimensions of within described premises on all sides, and will except any state of facts an accurate survey may show including encroachments by the structures into the easement area described in L/R ___page __, violations of the covenant, condition or restriction in L/R ___page___, or encroachments into the setback area shown on filed map # _____.

What is the zoning coverage provided by the TOEPP?

Exclusion number 1 of the policy provides as follows:

In addition to the Exceptions in Schedule B, You are not Insured against loss, costs, attorney fees, and expenses resulting from:

1. *Governmental police power, and the existence or violation of any law or government regulations. This includes ordinances, laws and regulations concerning:*
 - a. *building*
 - b. *zoning*
 - c. *land use*
 - d. *improvements on the Land*
 - e. *land subdivision*
 - f. *environmental protection*

This exclusion is similar to the policy exclusion that is contained in the ALTA owner's policy. However, the exclusion in the TOEPP goes on to state that it does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 23.



Please note the following with regard to the zoning coverage provide in the TOEPP:

- Coverage is for conditions (violations of zoning laws or regulations or subdivision laws or regulations) existing at the policy date resulting from the forced removal of the structure or the inability to obtain a building permit.
- As with the ALTA policy, this exclusion does not apply to matters appearing in the public record at the policy date if such matters are not excepted on Schedule B of the policy.
- Covered risk 15 and 16 do not include boundary walls and fences.
- Covered risk 14, 15, and 16 are subject to the deductible amount and the maximum dollar limit of liability.

What are the post policy coverages?

The statement of coverage in the policy, in part, is as follows:

Your insurance is effective on the Policy Date. This Policy covers Your actual loss from any risks described under Covered Risks if the event creating the risk exists on the Policy Date or, to the extent expressly stated, after the Policy Date.

The definition of Policy Date is:

Policy date- the date shown in Schedule A. If the recording date of the instruments creating the insured interest is later than the Policy Date, this policy shall also cover intervening liens or encumbrances, except real estate taxes, assessments, water charges and sewer rents.

- Any of the covered risks 1 through 6 occurring after the policy date are covered.
- Mechanics liens occurring after the policy date are covered.
- Supplemental real estate taxes, not previously assessed are covered
- Your neighbor builds structures after the policy date which encroach onto the land.

Submitting Claims

- Claims must be submitted promptly in writing to the insurer at the address listed in the policy.



TOEPP OWNER'S POLICY

TOEPP Owner's Policy: It should be your client's first choice when purchasing a 1 to 4 family residence.

The **TIRSA Owner's Extended Protection Policy (TOEPP)** provides the most **comprehensive** title coverage for purchasers of one-to-four family residences in the State of New York. *In addition* to the coverages provided by the Standard ALTA owner's policy, the TOEPP policy also provides enhanced coverage against certain covenant, condition or restriction violations, encroachments, certain post policy matters as well as certain limited zoning and building coverages. Some of the *enhanced* TOEPP policy features include:

- An automatic increase in the amount of insurance by 10% per year for the first five years following the date of policy.
- Insures expanded access by including Vehicular access to and from the land (other than to a Condominium Unit)
- Insures that the residence with the address shown on Schedule A is located on the land at policy date.
- Coverage for Certain Post-policy matters.
- Certain Limited Zoning and Building Coverages.*
- Protection against actual loss sustained by the forced removal or correction of a violation of a covenant, condition or restriction affecting the land, the violation of which was not excepted in your policy but existed at policy date.
- Protection against the loss or taking of your title because of a violation of a covenant, condition or restriction, the violation of which was not excepted in your policy but which occurred before you acquired title.

* *Subject to deductibles and maximum liability amounts*

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TOEPP OWNER'S POLICY

Post Policy Coverages provided by the TOEPP Policy Actual loss resulting from:

- ✓ Someone else owning an Interest in Your Title
- ✓ Someone else having rights affecting Your Title arising out of leases, contracts, or options
- ✓ Someone else claiming to have rights affecting Your Title arising out of forgery or impersonation
- ✓ Someone else having an easement on the Land
- ✓ Someone else having a right to limit Your use of the Land
- ✓ Your Title is defective
- ✓ Someone else having a lien occurring after the policy date on Your Title for labor and material furnished before the Policy Date
- ✓ Damage to existing structures, other than boundary walls or fences, due to the future exercise of a right to use the surface of the land for the extraction or development of minerals, water or any other substance
- ✓ Enforcement of a discriminatory covenant, condition or restriction
- ✓ Supplemental real estate taxes assessed against Your Land for any period before the policy date because of construction or a change of ownership or use that occurred before the Policy date
- ✓ Your neighbor building any structure after the Policy date other than boundary walls or fences, which encroach onto the Land

Zoning and Building Coverages provided by the TOEPP Policy Actual loss resulting from:

- ✓ Your inability to use the land as a *single family* residence because it violates a zoning law or zoning regulation existing at policy date.
- ✓ (*Subdivision Law Violation*) A violation of a subdivision law or regulation affecting the land, existing as of the policy date, that either prevents you from obtaining a building permit, forces the correction or removal of the violation or because of the violation someone else refuses to perform a contract to purchase, lease it or make a mortgage on it.*
- ✓ (*Building Permit*) The forced removal of all or any part of the structures on Your Land existing at the date of policy, other than boundary walls and fences, because they were built without obtaining a building permit from the proper government office.*
- ✓ (*Zoning*) The Forced removal of all or any part of the structures on Your Land existing at date of policy, other than boundary walls and fences, because they violate an existing zoning law or regulation.*
- ✓ (*Encroachment of Boundary Walls and Fences*) The Forced removal of all or any part of the structures on Your Land existing at date of policy, because they encroach onto a neighbor's land**
- ✓ The Forced removal of your existing structures because they encroach onto an easement or over a building set-back line, provided that such encroachment is not excepted in your policy.

*Subject to deductibles and maximum liability amounts

**deductibles and maximum liability amounts apply if the structures are boundary walls and fences

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Considerations and Underwriting Guidelines when Issuing the TOEPP policy:

- 1) It must be **1-4 family residential property** (It can be a condominium unit, but not a Coop Unit.)
- 2) It cannot be issued in transactions involving **unimproved land**. (*If the property to be insured consists of two or more parcels, at least one of which is vacant land, the TOEPP policy cannot be issued*).
- 3) It may be issued only to **natural persons**. (*The term natural person includes a trustee of a living trust established by an individual for estate planning purposes, even if trustee is not an individual.*)
- 4) It cannot be issued to **corporations, partnerships, LLCs or other entities**.
- 5) You must verify that there is **vehicular access**. If there is no vehicular access, you must raise an exception in Schedule B that “vehicular access is NOT insured.”
- 6) TOEPP policy should not be issued unless a **survey** acceptable to the company is provided and read into the policy. IF there is a violation of any C&R, then **both the C&R and the violation must be excepted** in the title certificate and policy. (*When insuring a condominium unit, the TOEPP policy can be issued without a survey provided the standard Condominium survey exception is excepted in Schedule B*).
- 7) The Property to be insured must be **all of a tax lot**. If the tax lot has not been apportioned as of the date of the insurance, then the TOEPP policy cannot be issued. (*Minor variations between the tax lot dimensions and the record description will not preclude the issuance of the TOEPP policy as long as an exception for the variation is added to schedule B.*)
- 8) A **building department search** should be performed to determine that all structures and improvements were built with a **building permit**. Remember that you must also find a corresponding **Certificate of Occupancy (C.O.)/Completion** for each improvement/building permit. If a building permit or a C.O. is not found for an improvement, a **specific exception must be raised in Schedule B** stating that no liability is assumed under Covered Risk #15 due to the lack of a building permit and/or a C.O. for that particular improvement. A Building Permit and Certificate of Occupancy search should be performed in connection with every request for the TOEPP. *There should be **no pending or current construction affecting the premises in question***. If your building department search reveals a **violation**, the TOEPP policy may not be issued without speaking to underwriting counsel.
- 9) A **survey** being read into the title report should be **compared against the C.O. search** to determine whether there are any improvements that have been added without a C.O. since the date of survey.



- 10) As previously stated, a survey acceptable to the company must be read into the title. The reading must show all encroachments of buildings, walls and fences. If there are any encroachments onto easements or setback areas that could result in the forced removal of structures, **both the easement/setback area AND the encroachment** must be set up as an exception in the title certificate.
- 11) You must verify the **address of the property** and insert it in Schedule A. *(If the property has several recognized addresses, all known addresses should be inserted)*
- 12) The seller should execute a **TOEPP seller's affidavit (Sample attached)**
- 13) The **TOEPP Market Value Rider should be offered** in each TOEPP policy transaction.
- 14) Finally, if the title examination or the circumstances of the transactions suggest a problem with any of the coverage provided under the TOEPP policy, you should decline to issue the policy. Nothing in the rate manual or in the insurance law requires us to issue the TOEPP policy. It may be the case, that because of a zoning or building permit matter, the TOEPP policy cannot be issued, but the ALTA 2006 Owners Policy can be issued.

Policy of Title Insurance

Issued By Blank Title Insurance Company

TIRSA Owner's Extended Protection Policy

FOR A ONE-TO-FOUR FAMILY RESIDENCE

OWNER'S COVERAGE STATEMENT

This Policy insures You against actual loss, including any costs, attorney's fees and expenses provided under this Policy, resulting from the Covered Risks set forth below, if the Land is an improved residential lot on which there is located a one-to-four family residence and each insured named in Schedule A is a Natural Person.

This Policy is not complete without Schedules A and B.

Your insurance is effective on the Policy Date. This Policy covers Your actual loss from any risk described under Covered Risks if the event creating the risk exists on the Policy Date or, to the extent expressly stated, after the Policy Date.

Your insurance is limited by all of the following:

- ◆ The Policy Amount shown in Schedule A
- ◆ For Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A
- ◆ Exceptions in Schedule B
- ◆ Exclusions on page (TO BE DETERMINED)
- ◆ Conditions on page (TO BE DETERMINED).

COVERED RISKS

The Covered Risks are:

1. Someone else owns an interest in Your Title.
2. Someone else has rights affecting Your Title arising out of leases, contracts, or options.
3. Someone else claims to have rights affecting Your Title arising out of forgery or impersonation.
4. Someone else has an easement on the Land.
5. Someone else has a right to limit Your use of the Land.
6. Your Title is defective.
7. Any of Covered Risks 1 through 6 occurring after the Policy Date.
8. Someone else has a lien on Your Title, including a:
 - a. Mortgage;
 - b. judgment, state or federal tax lien, or special assessment;

- c. charge by a homeowner's or condominium association; or
- d. lien, occurring before or after the Policy Date, for labor and material furnished before the Policy Date.

9. Someone else has an encumbrance on Your Title.

10. Someone else claims to have rights affecting Your Title arising out of fraud, duress, incompetency or incapacity.

11. You do not have both actual vehicular and pedestrian access to and from the Land, other than vehicular access to a condominium unit, based upon a legal right.

12. You are forced to correct or remove a violation existing at Policy Date of any covenant, condition or restriction affecting the Land, even if the covenant, condition or restriction is excepted in Schedule B, provided that such violation of the covenant, condition or restriction is not excepted in Schedule B.

13. Your Title is lost or taken because of a violation of any covenant, condition or restriction, which occurred before You acquired Your Title, even if the covenant, condition or restriction is excepted in Schedule B, provided that such violation of the covenant, condition or restriction is not excepted in Schedule B.

14. Because of a violation of a subdivision law or regulation existing at Policy Date affecting the Land:

- a. You are unable to obtain a building permit;
- b. You are forced to correct or remove the violation; or

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- c. someone else has a legal right to, and does, refuse to perform a contract to purchase the Land, lease it or make a Mortgage loan on it.

The amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

15. The cost of the forced removal of Your structures, or any part of them, other than boundary walls or fences, as existing at Policy Date, because any portion was built without obtaining a building permit from the proper government office. The amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

16. The cost of the forced removal of Your structures, or any part of them, other than boundary walls or fences, as existing at Policy Date, because they violate an existing zoning law or zoning regulation. The amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

17. You cannot use the Land because use as a single-family residence violates a zoning law or zoning regulation existing at Policy Date.

18. You are forced to remove Your structures, or any part of them, as existing at Policy Date, because they encroach onto Your neighbor's land. If the encroaching structures are boundary walls or fences, the amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

19. Someone else has a legal right to, and does, refuse to perform a contract to purchase the Land, lease it or make a Mortgage loan on it because Your neighbor's structures, or any part of them, as existing at Policy Date, encroach onto the Land.

20. You are forced to remove Your existing structures because they encroach onto an easement or over a building set-back line, even if the easement or building set-back line is excepted in Schedule B, provided that such encroachment is not excepted in Schedule B.

21. Your existing structures (or a replacement or modification made to them after the Policy Date), or any part of them, other than boundary walls or fences, are damaged because of the future exercise of a right to use the surface of the Land for the extraction or development of minerals, water or any other substance, even if those rights are excepted or reserved from the description of the Land or excepted in Schedule B.

22. Someone else tries to enforce a discriminatory covenant, condition or restriction that they claim affects Your Title which is based upon race, color, religion, sex, handicap, familial status, or national origin.

23. A taxing authority assesses supplemental real estate taxes not previously assessed against the Land for any period before the Policy Date because of construction or a change of ownership or use that occurred before the Policy Date.

24. Your neighbor builds any structures after the Policy Date, other than boundary walls or fences, which encroach onto the Land.

25. Your Title is unmarketable, which allows someone else to refuse to perform a contract to purchase the Land, lease it or make a Mortgage loan on it.

26. A document upon which Your Title is based is invalid because it was not properly signed, sealed, acknowledged, delivered or recorded.

27. The residence with the address shown in Schedule A is not located on the Land at the Policy Date.

28. The survey map, if any, referred to in Schedule B of this Policy does not show the correct location of the Land according to the Public Records.

EXCLUSIONS

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorney's fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:

- a. building
- b. zoning
- c. land use
- d. improvements on the Land
- e. land subdivision
- f. environmental protection

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This Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.

This Exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 23.

2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
 - a. a notice of exercising the right appears in the Public Records at the Policy Date
 - b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.
4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.d, 21, 22, 23 or 24.

5. Failure to pay value for Your Title.

6. Lack of a right:

- a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
- b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

7. Any claim which arises out of the transaction vesting in You Title by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights law, that is based upon:
 - a. the transaction creating Your Title being deemed a fraudulent conveyance or a fraudulent transfer; or
 - b. the transaction creating Your Title being deemed a preferential transfer except where the preferential transfer results from the failure:
 - i. to timely record the deed to You; or
 - ii. of the recording of the deed to You to be notice to a purchaser for value or a judgment or lien creditor.

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CONDITIONS

1. Definitions:

Easement - the right of someone else to use the Land for a special purpose.

Known - things about which You have actual knowledge. The words "Know" and "Knowing" have the same meaning as Known.

Land - the land or condominium unit, and its interest in the common elements, described in paragraph 3 of Schedule A and any improvements on the land which are real property.

Mortgage - a mortgage, deed of trust, trust deed or other security instrument.

Natural Person - a human being, not a commercial or legal organization or entity. Natural Person includes a trustee of a Trust even if the trustee is not a human being.

Policy Date - the date shown in Schedule A. If the recording date of the instruments creating the insured interest is later than the Policy Date, this policy shall also cover intervening liens or encumbrances, except real estate taxes, assessments, water charges and sewer rents.

Public Records - records that give constructive notice of matters affecting Your Title, according to New York State law. With respect to Section 1.f. of the Exclusions, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the Land is located.

Title - the ownership of the interest in the Land, as shown in Schedule A.

Trust - a living trust established by a human being for estate planning.

We/Our/Us - Blank Title Insurance Company.

You/Your - the insured named in Schedule A and also those identified in paragraph 2.b. of these Conditions

2. Continuation of Coverage:

- a. This Policy protects You as long as You own Your Title or own a mortgage from anyone who buys Your Land or are liable for any title warranties You make. You cannot assign this Policy to anyone else.
- b. This Policy also insures:

- i. anyone who inherits Your Title because of Your death;
 - ii. Your spouse who receives Your Title because of dissolution of Your marriage;
 - iii. the trustee or successor trustee of a Trust to whom You transfer Your Title after the Policy Date; or
 - iv. the beneficiaries of Your Trust upon Your death.
- c. We may assert against the insureds identified in paragraph 2.b. any rights and defenses that We have against any previous insured under this Policy.

3. How To Make A Claim:

- a. Prompt Notice Of Your Claim
 - i. As soon as You Know, or could have known, of anything that might be covered by this Policy, You must notify Us promptly in writing.
 - ii. Send your notice to Blank Title Insurance Company, 123 Any Street, Anytown, NY 12345, Attention: Claims Department. Please include the Title number and the Policy number shown in Schedule A, and the county where the Land is located. Please enclose a copy of Your policy if available.
 - iii. if You do not give Us prompt notice, your coverage will be reduced or ended, but only to the extent Your failure affects Our ability to resolve the claim or defend you.
- b. Proof Of Your Loss
 - i. We may require You to give Us a written statement signed by You describing Your loss which includes:
 - (a) the basis of Your claim;
 - (b) the Covered Risks which resulted in Your loss;
 - (c) the dollar amount of Your loss; and
 - (d) the method You used to compute the amount of Your loss.

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- ii. We may require You to make available to Us records, checks, letters, contracts, insurance policies and other papers which relate to Your claim. We may make copies of these papers.
- iii. We may require You to answer questions about Your claim under oath.
- iv. If You fail or refuse to give Us a statement of loss, answer Our questions under oath, or make available to Us the papers We request, Your coverage will be reduced or ended, but only to the extent Your failure or refusal affects Our ability to resolve the claim or defend You.

4. Our Choices When We Learn Of A Claim

- a. After We receive Your notice, or otherwise learn, of a claim that is covered by this Policy, Our choices include one or more of the following:
 - i. Pay the claim.
 - ii. Negotiate a settlement.
 - iii. Bring or defend a legal action related to the claim.
 - iv. Pay You the amount required by this Policy.
 - v. End the coverage of this Policy for the claim by paying You Your actual loss resulting from the Covered Risk, and those costs, attorney's fees and expenses incurred up to that time which We are obligated to pay.
 - vi. End the coverage described in Covered Risk 14, 15, 16 or 18 by paying You the amount of Your insurance then in force for the particular Covered Risk, and those costs, attorney's fees and expenses incurred up to that time which We are obligated to pay.
 - vii. End all coverage of this Policy by paying You the Policy Amount then in force and all those costs, attorney's fees and expenses incurred up to that time which We are obligated to pay.
 - viii. Take other appropriate action.
- b. When We choose the options in paragraphs 4.a. (v), (vi) or (vii), all Our obligations for the claim end, including Our obligation to

defend, or continue to defend, any legal action.

- c. Even if We do not think that the Policy covers the claim, We may choose one or more of the options above. By doing so, We do not give up any rights.

5. Handling A Claim Or Legal Action

- a. You must cooperate with Us in handling any claim or legal action and give Us all relevant information.
- b. If You fail or refuse to cooperate with Us, Your coverage will be reduced or ended, but only to the extent Your failure or refusal affects Our ability to resolve the claim or defend You.
- c. We are required to repay You only for those settlement costs, attorney's fees and expenses that We approve in advance.
- d. We have the right to choose the attorney when We bring or defend a legal action on Your behalf. We can appeal any decision to the highest level. We do not have to pay Your claim until the legal action is finally decided.
- e. Whether or not We agree there is coverage, We can bring or defend a legal action, or take other appropriate action under this Policy. By doing so, We do not give up any rights.

6. Limitation Of Our Liability

- a. After subtracting Your Deductible Amount if it applies, We will pay no more than the least of:
 - i. Your actual loss,
 - ii. Our Maximum Dollar Limit of Liability then in force for the particular Covered Risk, for claims covered only under Covered Risk 14, 15, 16 or 18, or
 - iii. the Policy Amount then in force.
- b.
 - i. If We remove the cause of the claim with reasonable diligence after receiving notice of it, all Our obligations for the claim end, including any obligation for loss You had while We were removing the cause of the claim.
 - ii. Regardless of 6.b.(1) above, if You cannot use the Land because of a claim covered by this Policy:

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You may rent a reasonably equivalent substitute residence and We will repay You for the actual rent You pay, until the earlier of:

- (i) the cause of the claim is removed; or
 - (ii) We pay You the amount required by this Policy. If Your claim is covered only under Covered Risk 14, 15, 16 or 18, that payment is the amount of Your insurance then in force for the particular Covered Risk.
- (b) We will pay reasonable costs You pay to relocate any personal property You have the right to remove from the Land, including transportation of that personal property for up to twenty-five (25) miles from the Land, and repair of any damage to that personal property because of the relocation. The amount We will pay You under this paragraph is limited to the value of the personal property before You relocate it.
- c. All payments We make under this Policy reduce the Policy Amount, except for costs, attorney's fees and expenses. All payments we make for claims which are covered only under Covered Risk 14, 15, 16 or 18 also reduce Our Maximum Dollar Limit of Liability for the particular Covered Risk, except for costs, attorney's fees and expenses.
- d. If We issue, or have issued, a policy to the owner of a Mortgage on Your Title and We have not given You any coverage against the Mortgage, then:
- (1) We have the right to pay any amount due You under this Policy to the owner of the Mortgage to reduce the amount of the Mortgage, and any amount paid shall be treated as a payment to You under this Policy, including under paragraph 4.a.of these Conditions;
 - (2) Any amount paid to the owner of the Mortgage shall be subtracted from the Policy Amount of this Policy; and

- (3) If Your claim is covered only under Covered Risk 14, 15, 16 or 18, any amount paid to the owner of the Mortgage shall also be subtracted from Our Maximum Dollar Limit of Liability for the particular Covered Risk.

- e. We will pay any costs, attorney's fees and expenses which We are obligated to pay under this Policy.
- f. If You do anything to affect any right of recovery You may have against someone else, We can subtract from Our liability the amount by which You reduced the value of that right.

7. Our Duty To Defend Against Legal Actions

We will defend Your Title in any legal action only as to that part of the action which is based on a Covered Risk and which is not excepted or excluded from coverage in this Policy. We will pay the costs, attorney's fees, and expenses We incur in that defense.

We will not pay for any part of the legal action which is not based on a Covered Risk or which is excepted or excluded from coverage in this Policy.

We can end Our duty to defend Your Title under paragraph 4 of the Conditions.

8. Transfer Of Your Rights To Us

- a. When We settle Your claim, We have all the rights You have against any person or property related to the claim. You must transfer these rights to Us when We ask, and You must not do anything to affect these rights. You must let Us use Your name in enforcing these rights.
- b. We will not be liable to You if We do not pursue these rights or if We do not recover any amount that might be recoverable.
- c. We will pay any money We collect from enforcing these rights in the following order
 - i. to Us for the costs, attorney's fees and expenses We paid to enforce these rights;
 - ii. to You for Your loss that You have not already collected;

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- iii. to Us for any money We paid out under this Policy on account of Your claim; and
- iv. to You whatever is left.
- d. If You have rights under contracts (such as indemnities, guaranties, bonds or other policies of insurance) to recover all or part of Your loss, then We have all of those rights, even if those contracts provide that those obligated have all of Your rights under this Policy.

9. Entire Contract

This Policy, with any endorsements, is the entire contract between You and Us. To determine the meaning of any part of this Policy, You must read the entire Policy. Any changes to this Policy must be agreed to in writing by Us. Any claim You make against Us must be made under this Policy and is subject to its terms.

10. Increased Policy Amount

The Policy Amount will increase by ten percent (10%) of the Policy Amount shown in Schedule A each year for the first five years following the policy date shown in Schedule A, up to one hundred fifty percent (150%) of the Policy Amount shown in Schedule A. The increase each year will happen on the anniversary of the Policy Date shown in Schedule A.

11. Severability

If any part of this Policy is held to be legally unenforceable, both You and We can still enforce the rest of this Policy.

12. Arbitration

- a. If permitted in the State of New York, You or We may demand arbitration.
- b. The arbitration shall be binding on both You and Us. The arbitration shall decide any matter in dispute between You and Us.
- c. The arbitration award may be entered as a judgment in the proper court.
- d. The arbitration shall be under the Title Insurance Arbitration Rules of the American Arbitration Association. You may choose current Rules or Rules in existence on the Policy Date.
- e. The law used in the arbitration is the law of the state of New York.
- f. You can get a copy of the Rules from Us.

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SCHEDULE A

Policy No: (Title No.)

Policy Amount: \$ Policy Date:

Deductible Amounts and Maximum Dollar Limits of Liability
For Covered Risk 14, 15, 16 and 18

	Your Deductible Amount	Our Maximum Dollar Limit of Liability
Covered Risk 14 (Subdivision Law Violation):	\$2000	\$10,000
Covered Risk 15 (Building Permit):	\$4000	\$25,000
Covered Risk 16 (Zoning):	\$4000	\$25,000
Covered Risk 18 (Encroachment of Boundary Walls Or Fences):	\$1500	\$5,000

Street Address of the Land:

1. Name of Insured:
2. Your interest in the Land covered by this Policy is:
3. The Land referred to in this Policy is described as:

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SCHEDULE B

Exceptions

In addition to the Exclusions, You are not insured against loss, costs, attorney's fees, and expenses resulting from:

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TOEPP COMMON EXCEPTIONS AFFIDAVIT

Title No. _____

Section:

Block:

Premises: _____

Lot:

County:

State of _____ s)

County of _____ s)

Seller, of full age, being duly sworn according to law, deposes and says:

1. I am the owner of premises known as
2. That I am the same person as the grantee of said premises who acquired title by deed dated _____, recorded _____, in Liber/Reel _____ Page _____.
3. That none of the (judgments), (federal tax liens), (parking violations), (environmental control board liens), (State tax warrants), (City tax warrants) set forth in Exception(s) _____ and _____ in the above-numbered title report are against me. I have never resided or maintained an office at any of the addresses in the items set forth in said Exception(s).
4. That there has not been any work done upon the above-mentioned premises by the City of New York, nor has the City of New York made any demand for any such work that may result in charges by the by the New York City Department of Rent and Housing Maintenance, or charges by the New York City Department of Environmental Protection for water tap closings or any related work, whether or not such charges are liens against the above-mentioned property.
5. That no fee for an inspection, reinspection, examination or service performed by the Department of Buildings has been levied, charged, created or incurred that may become a lien on the premises herein (See Section 26-128 of the Administrative Code of the City of New York). That there are no other liens pursuant to the Administrative Code of the City of New York that may affect the above-mentioned premises.
6. That I have examined a certain survey of the premises herein made by _____, dated _____, a copy of which is attached hereto, and there have not been any exterior alterations or additions made to the buildings shown thereon (except for _____, and as to those alterations or additions, a certificate of occupancy or substantial compliance has been issued by the Department of Buildings of the City/Town of _____ for same). There have not been any additional buildings or other structures constructed on the premises since the date of the above- mentioned survey. That said survey accurately describes the current status of the premises.
7. That during the time of my ownership of premises, I have not done any act or allowed any act to be done that has changed or which could change the boundaries of the above-mentioned premises.
8. That no work has been done or materials furnished to the premises within 4 months of the date hereof that could result in the filing of a mechanic's lien.
9. There are presently () tenants in said premises. Each of said tenants is either

- a. in possession under a lease containing a standard subordination clause fully and unconditionally subordinating said lease to all existing and future mortgages, (and/or)
 - b. a statutory tenant
 - c. all persons in possession are in possession as tenants only. There are no options to purchase or rights of first refusal either pursuant to written leases or by separate agreements.
10. That there are no tenants in the above-mentioned premises.
 11. That I have not been known by any other married or maiden name in the in the last 10 years.
 12. That I make this affidavit to induce **TITLE INSURANCE COMPANY** to insure title to the above-mentioned property and to issue its policy of title insurance thereon.

Sworn to before me this day of ,

 Notary Public

(STRIKE OUT EVERYTHING THAT IS INAPPLICABLE)