



FIDELITY NATIONAL TITLE INSURANCE COMPANY

Policy No.:

**LENDER'S POLICY
FOR
COOPERATIVE APARTMENTS**

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS TO COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS AND STIPULATIONS, FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California corporation (herein called the "Company"), insures, as of Date of Policy shown in Schedule A for those coverages included in Category I, and after Date of Policy for those coverages set forth in Category II, against Loss or Damage, not exceeding the amount of insurance stated in Schedule A, sustained or incurred by the Insured by reason of any of the following:

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SAMPLE

Category I

1. The Insured Security Interest has not Attached to all of the Collateral;
2. The Insured Security Interest has not been Perfected as to all of the Collateral;
3. The Insured Security Interest does not have Priority over any Lien or other Security Interest in all of the Collateral;
4. Any assignment shown in Schedule A has not transferred the Insured Security Interest to the Insured free of any Security Interest of any other person or entity that has Priority over the Insured Security Interest in all of the Collateral.

Category II

Any Purchaser of all or any portion of the Collateral whose interest in the Collateral is acquired after Date of Policy obtaining Priority over the Insured Security Interest or taking the Collateral, or any portion thereof, free of the Insured Security Interest, but only if the Purchaser acquires its interest prior to the time the Debtor becomes the subject of a federal bankruptcy, state insolvency or similar proceeding.

Fidelity National Title Insurance Company



By: *[Signature]*

ATTEST *[Signature]* President

[Signature] Secretary

Countersigned _____
Authorized Signatory

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. 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 filed 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; or
 - (d) resulting in Loss or Damage which would not have been sustained if the Insured Claimant had paid Value for the Insured Security Interest.
2. Any claim by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws that the Insured Security Interest in whole or part constitutes or was created by, a fraudulent conveyance, fraudulent transfer, equitable subordination or preference arising out of the transaction creating the Insured Security Interest on Date of Policy provided, however, that this exclusion shall not apply to any pre-emptive claim under federal bankruptcy law based on the failure of the security interest to be perfected.
3. Any defect arising from the incorrectness of any of the information set out in Schedule A except for: (i) information that the Company has failed to transcribe correctly from the source of such information; (ii) information relating to the current exact legal name of the Debtor, as set forth in item 2 of Schedule A; and (iii) information relating to the financing statements to be filed in connection with this Policy, as set forth in item 10 of Schedule A.
4. Lack of Priority of the Insured Security Interest, as insured herein, as to all or any portion of the Collateral, over the Rights or Interests of a Purchaser when that Purchaser's claimed Rights or Interests are or are claimed to be Interests in the Proceeds of the Collateral or the Proceeds of Purchaser's collateral.
5. Any Lien in any portion of the Collateral held by a Lien Creditor on Date of Policy if the Lien was either
 - (a) suffered by a prior owner of the Collateral; or
 - (b) acquired by a method other than Filing in the Public Records.
6. The failure of any Insured to perform any act necessary to maintain the Perfection of the Insured Security Interest after Date of Policy.
7. Any change after Date of Policy in any of the following:
 - a. the information provided in Schedule A;
 - b. the documents described in Schedule A; or
 - c. those facts concerning the Debtor or the Collateral that would render the information provided in Schedule A misleading or incomplete or would require the Insured to reperfect the Insured Security Interest in order to maintain its Priority in some or all of the Collateral.
8. Any claim resulting from the transfer of an Insured Security Interest not reflected or incorrectly reflected on the books and records of the Cooperative Organization.
9. Unenforceability of the Insured Security Interest caused by violation of usury or truth in lending statutes.

CONDITIONS AND STIPULATIONS

1. Definition of Terms.

The following terms when used in this policy mean:

- a. "Collateral": the stock certificate and proprietary lease that are described on Schedule A.
- b. "Debtor": the grantor of the Security Interest under the Debtor Security Agreement.
- c. "Debtor Security Agreement": the Security Agreement identified in Schedule A.
- d. "File," "Filed" or "Filing": filing, recording or registering in the Public Records.
- e. "Filing Office": the governmental or quasi-governmental agency or agencies and their locations shown in Schedule A.
- f. "Indebtedness": the sum of the following that are secured by the Debtor Security Agreement:
 - (1) Advances made by the Insured to or for the benefit of the Debtor on or before Date of Policy;
 - (2) Interest and late charges on the Advances;
 - (2) Amounts reasonably spent or incurred by reason of foreclosure, retention of the Collateral in satisfaction of the Indebtedness, or other legal manner that discharges the Security Interest of the Debtor Security Agreement;
 - (4) Amounts reasonably spent or incurred to assure compliance with laws, or to protect the Attachment, Perfection, or Priority of the Insured Security Interest prior to the time of the disposition of the Collateral pursuant to an exercise of remedies under the Debtor Security Agreement;
 - (5) Amounts reasonably spent or incurred to prevent deterioration of the premises to which the Collateral relates; and
 - (6) Any and all other amounts owed to the Insured pursuant to the Debtor Security Agreement.
- g. "Insured": the party or parties named in Schedule A and the owner of the Indebtedness Secured by the Debtor Security Agreement and each successor in ownership of the Indebtedness except a Non-Insured Obligor.
- h. "Insured Claimant": an Insured claiming Loss or Damage.
- i. "Insured Security Interest": the Security Interest created by the Debtor in the Collateral.
- j. "Lien": the interest held by a Lien Creditor, including a federal or state taxing authority asserting a Lien for the failure to pay income taxes.
- k. "Loss" or "Damage" shall mean loss or damage arising from the application of any law of the United States of America or of the State of New York.. .
- l. "Non-Insured Obligor": an obligor under an indemnity, guarantee, letter of credit, repurchase obligation, surety bond, or other policy of insurance or bond who succeeds to or acquires the Insured Security Interest.
- m. "Public Records": those records maintained by the Filing Office.
- n. "Uniform Commercial Code": the Uniform Commercial Code as in effect in the State of New York.
- o. "Value of the Collateral": the value of the cooperative unit at the time of Loss or Damage as established by a New York Certified General or Residential Real Estate Appraiser agreed to by the Company and the Insured Claimant, whose fees shall be borne by the Company. Failing agreement, "Value of the Insured Interest" shall be established by three New York State Certified General or Residential Real Estate Appraisers, one selected by the company, one selected by the Insured Claimant, and the third selected by the first two appraisers, the fee for all three appraisers to be divided between the company and the Insured Claimant.

Any capitalized term used in this policy that is not defined in this policy, shall have the meaning given to it in Article 9 of the Uniform Commercial Code, or, solely with respect to the term "Value," Article 1 of the Uniform Commercial Code. The singular of each term above shall also refer to the plural.

2. Continuance of Insurance.

The coverage of this policy shall continue in favor of the Insured so long as the Insured holds the Indebtedness or has liability by reason of any warranty based on the coverage of this policy made by the Insured regarding the Insured Security Interest upon a transfer of the Indebtedness; provided, however, that claims arising by virtue of any law, rule, or regulation enacted or promulgated after Date of Policy will not be paid.

3. Notice of Claim to be given by Insured Claimant.

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an Insured hereunder of any claim which is adverse to the Insured Security Interest, and which might cause Loss or Damage for which the Company may be liable by virtue of this policy. If prompt notice shall not be given to the Company, then as to the Insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

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Lender's Policy for
Cooperative Apartments (Aug 2008)

4. Defense and Prosecution of Actions; Duty of Insured Claimant to Cooperate.

a. Upon written request by the Insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim adverse to the Insured Security Interest, but only as to those stated causes of action alleging a defect, Lien or encumbrance or other matter Insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the Insured in the defense of those causes of action which allege matters not Insured against by this policy.

b. The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act, which in its opinion, may be necessary or desirable to establish the Insured Security Interest, or to prevent or reduce Loss or Damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

c. Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

d. In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the Insured Security Interest. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

5. Proof of Loss or Damage.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided to the Company, a proof of Loss or Damage signed and sworn to by the Insured Claimant shall be furnished to the Company within 90 days after the Insured Claimant shall ascertain the facts giving rise to the Loss or Damage. The proof of Loss or Damage shall describe the matter Insured against by this policy, which constitutes the basis of Loss or Damage, and shall state, to the extent possible, the basis of calculating the amount of the Loss or Damage. If the Company is prejudiced by the failure of the Insured Claimant to provide the required proof of Loss or Damage, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of Loss or Damage.

In addition, the Insured Claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the Loss or Damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the Loss or Damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

6. Options to Pay or Otherwise Settle Claims; Termination of Liability. In case of a claim under this policy, the Company shall have the following additional options:

a. To Pay or Tender Payment of the amount of insurance 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, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay; or

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(ii) to purchase the Indebtedness secured by the Insured Security Interest for the amount owing thereon together with any costs, attorneys' fees and expenses incurred by the Insured Claimant which were authorized by the Company up to the time of purchase and which the Company is obligated to pay.

If the Company offers to purchase the Indebtedness as herein provided, the owner of the Indebtedness shall transfer, assign, and convey the Indebtedness and the Insured Security Interest, together with any collateral security, to the Company upon payment therefor.

Upon the exercise by the Company of either of the options provided for in paragraphs a (i) or (ii), all liability and obligations to the Insured under this policy, other than to make the payment required in those paragraphs, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

b. To Pay or otherwise Settle With Parties other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim Insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the Insured Claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the Insured Claimant the Loss or Damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the Insured Claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs b(i) or (ii), the Company's obligations to the Insured under this policy for the claimed Loss or Damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

7. Determination 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 and only to the extent herein described.

a. The liability of the Company under this policy shall not exceed the least of:

(i) the amount of insurance stated in Schedule A;

(ii) the Indebtedness outstanding at the time the Loss or Damage Insured against by this policy occurs, reduced by the amount the Insured can recover from the Collateral; or

(iii) the Value of the Collateral, reduced by the amount the Insured is able to recover from the Collateral.

b. The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

8. Limitation of Liability.

a. If the Company removes the alleged defect, Lien or encumbrance, or otherwise establishes the Insured Security Interest, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any Loss or Damage caused thereby.

b. In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for Loss or Damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to Insured Security Interest.

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.

d. The coverages of this policy shall not apply to advances made under the Insured Security Agreement subsequent to the Date of Policy except for advances included within the definition of Indebtedness herein.

9. 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 the insurance pro tanto.

b. Payment in part by any person of the principal of the Indebtedness, or any other obligation secured by the Insured Security Interest, or any voluntary partial satisfaction or release of the Insured Security Interest, to the extent of the payment, satisfaction or release, shall reduce the amount of insurance pro tanto. The amount of insurance may thereafter be increased by accruing interest and advances made to protect the Insured Security Interest with interest thereon, provided in no event shall the amount of insurance be greater than the amount of insurance stated in Schedule A.

c. Payment in full by any person or the voluntary satisfaction or release of the Debtor Security Agreement shall terminate all liability of the Company.

10. Payment of Loss.

- a. No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
- b. When liability and the extent of Loss or Damage has been definitely fixed in accordance with these Conditions and Stipulations, the Loss or Damage shall be payable within 30 days thereafter.

11. Subrogation upon Payment or Settlement.

- a. The Company's Right of Subrogation.
Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the Insured Claimant.
The Company shall be subrogated to and be entitled to all rights and remedies which the Insured Claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the Insured Claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Insured Claimant shall permit the Company to sue, compromise or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights or remedies. Anything that may be contained herein to the contrary notwithstanding, the Company will not seek subrogation against any attorney of any Insured under this policy for liability other than fraud.
If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall be subrogated to all rights and remedies of the Insured Claimant after the Insured Claimant shall have recovered the Indebtedness.
- b. The Company's Rights Against Non-Insured Obligors.
The Company's right of subrogation against Non-Insured Obligors shall exist and shall include, without limitation, the rights of the Insured to indemnities, guaranties, letters of credit, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.
The Company's right of subrogation shall not be avoided by acquisition of the Insured Security Interest by an obligor who acquires the Insured Security Interest as a result of an indemnity, guarantee, letter of credit, 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 hereto by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
- b. Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the Insured Security Interest covered hereby or by any action asserting such claim, shall be restricted to this policy.
- c. No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.
- 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.

13. Severability.

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

14. Notices, Where Sent.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at the issuing office or to Fidelity National Title Insurance Company, Attention Claims Department, P.O. Box 45023, Jacksonville, FL 32232-5023.

15. Choice of Law and Jurisdiction.

This policy shall be governed by and construed in accordance with the Laws of the State of New York, without regard to conflicts of laws rules. The Insured agrees by accepting this policy that any suit hereunder shall be brought exclusively in the courts of the State of New York or any federal court sitting therein, and hereby waives any objection that it may now or hereafter have as to the venue of any such suit or any such court, or that such suit is brought in an inconvenient court.