

REDLINE OF 04-02-2021 V.02.00 AGAINST 12-01-2018 REVISION WITH 08-01-2019 TECHNICAL CORRECTION

**ALTA CLOSING PROTECTION LETTER
SINGLE TRANSACTION
issued by
BLANK TITLE INSURANCE COMPANY**

“Addressee”:

“Date”:

“Issuing Agent” or “Approved Attorney”:

[Issuing Office:

Issuing Office’s ALTA® Registry ID:]

“Real Estate Transaction”:

[Seller:

Buyer:

~~Street~~Property Address:

Loan Number:]

Re: Closing Protection Letter

Dear

In consideration of Your acceptance of this letter, [*Blank Title Insurance Company*] (the “Company”), agrees to indemnify You for actual loss of Funds incurred by You in connection with the closing of the Real Estate Transaction conducted by the Issuing Agent or Approved Attorney on or after the Date of this letter, subject to the Requirements and Conditions and Exclusions set forth below:

REQUIREMENTS

1. The Company issues or is contractually obligated to issue a Policy for Your protection in connection with the Real Estate Transaction;
2. You are to be a:
 - a. lender secured by the Insured Mortgage on the Title to the Land; or
 - b. purchaser or lessee of the Title to the Land;
3. The aggregate of all Funds You transmit to the Issuing Agent or Approved Attorney for the Real Estate Transaction does not exceed \$_____; and
4. Your loss is solely caused by:
 - a. a failure of the Issuing Agent or Approved Attorney to comply with Your written closing instructions that relate to:
 - i. (a). the disbursement of Funds necessary to establish the status of the Title to the Land; or
 - (b). the validity, enforceability, or priority of the lien of the Insured Mortgage; or



REDLINE OF 04-02-2021 V.02.00 AGAINST 12-01-2018 REVISION WITH 08-01-2019 TECHNICAL CORRECTION

- 51 ii. obtaining any document, specifically required by You, but only to the extent that the
52 failure to obtain the document adversely affects the status of the Title to the Land or the
53 validity, enforceability, or priority of the lien of the Insured Mortgage on the Title to the
54 Land; or
55 b. fraud, theft, dishonesty, or misappropriation by the Issuing Agent or Approved Attorney in
56 handling Your Funds or documents in connection with the closing, but only to the extent that
57 the fraud, theft, dishonesty, or misappropriation adversely affects the status of the Title to the
58 Land or the validity, enforceability, or priority of the lien of the Insured Mortgage on the Title to
59 the Land.

CONDITIONS AND EXCLUSIONS

- 64 1. Your transmittal of Funds or documents to the Issuing Agent or Approved Attorney for the Real Estate
65 Transaction constitutes Your acceptance of this letter.
- 66 2. For purposes of this letter:
- 67 a. “Commitment” means the Company’s written contractual agreement to issue the Policy.
68 b. “Funds” means the money received by the Issuing Agent or Approved Attorney for the Real
69 Estate Transaction.
70 c. “Policy” means the contract or contracts of title insurance, each in a form adopted by the
71 American Land Title Association, issued or to be issued by the Company in connection with
72 the closing of the Real Estate Transaction.
73 d. “You” or “Your” means:
74 i. the Addressee of this letter;
75 ii. the borrower, if the Land is improved solely by a one-to-four family residence; and
76 iii. subject to all rights and defenses relating to a claim under this letter that the Company
77 would have against the Addressee,
78 (a). the assignee of the Insured Mortgage, provided such assignment was for value
79 and the assignee was, at the time of the assignment, without Knowledge of facts
80 that reveal a claim under this letter; and
81 (b). the warehouse lender in connection with the Insured Mortgage.
82 e. “Indebtedness,” “Insured Mortgage,” “Knowledge” or “Known,” “Land,” and “Title” have the
83 same meaning given them in the American Land Title Association Loan Policy.
- 84 3. The Company ~~shall have no liability~~ **is not liable** under this letter for any loss arising from any:
- 85 a. failure of the Issuing Agent or Approved Attorney to comply with Your closing instructions that
86 require title insurance protection in connection with the Real Estate Transaction inconsistent
87 with that set forth in the Commitment. Your written closing instructions received and accepted
88 by the Issuing Agent or Approved Attorney after issuing the Commitment that require the
89 removal, where allowed by state law, rule, or regulation, of specific Schedule B Exceptions
90 from Coverage or compliance with the requirements contained in the Commitment ~~shall~~ **will** not
91 be deemed to require inconsistent title insurance protection;
92 b. loss or impairment of Funds in the course of collection or while on deposit with a bank due to
93 bank failure, insolvency, or suspension, except loss or impairment resulting from failure of the
94 Issuing Agent or Approved Attorney to comply with Your written closing instructions to deposit
95 Your Funds in a bank that You designated by name;
96 c. constitutional or statutory lien or claim of lien that arises from services, labor, materials, or
97 equipment, if any Funds are to be used for the purpose of construction, alteration, or
98 renovation. ~~This Section Condition and Exclusion 3-(c)~~ **does not affect the modify or limit Your**
99 renovation. ~~This Section Condition and Exclusion 3-(c)~~ **does not affect the modify or limit Your**
100 renovation. ~~This Section Condition and Exclusion 3-(c)~~ **does not affect the modify or limit Your**

REDLINE OF 04-02-2021 V.02.00 AGAINST 12-01-2018 REVISION WITH 08-01-2019 TECHNICAL CORRECTION

- 101 coverage, if any, as to any lien for services, labor, materials, or equipment ~~afforded~~ in the
102 Policy;
- 103 d. defect, lien, encumbrance, adverse claim, or other matter in connection with the Real Estate
104 Transaction. ~~This Section Condition and Exclusion 3-(d)~~, does not ~~affect the modify or limit Your~~
105 coverage ~~afforded~~ in the Policy;
- 106 e. fraud, theft, dishonesty, misappropriation, or negligence by You or by Your employee, agent,
107 attorney, or broker;
- 108 f. fraud, theft, dishonesty, or misappropriation by anyone other than the Company, Issuing Agent,
109 or Approved Attorney;
- 110 g. settlement or release of any claim by You without the Company's written consent;
- 111 h. matters created, suffered, assumed, agreed to, or Known by You;
- 112 i. failure of the Issuing Agent or Approved Attorney to determine the validity, enforceability, or the
113 effectiveness of a document required by Your closing instructions. ~~This Section Condition and~~
114 ~~Exclusion 3-(i)~~, does not ~~affect the modify or limit Your~~ coverage ~~afforded~~ in the Policy;
115 ~~Federal~~
- 116 j. Any law regulating trade, lending, credit, sale, and debt collection practices involving
117 consumers; any consumer financial law, as defined in 12 U.S.C. § 5481(14), actions under 12
118 U.S.C. § 5531; or any other federal or state law relating to truth-in-lending, predatory
119 lending, or a borrower's ability to repay a loan, qualified mortgages, consumer protection, or
120 predatory lending, including any failure of the Issuing Agent or Approved Attorney to comply
121 with Your closing instructions relating to those laws;
- 122 k. federal or state laws establishing the standards or requirements for asset-backed securitization
123 including, but not limited to, exemption from credit risk retention, including any failure of the
124 Issuing Agent or Approved Attorney to comply with Your closing instructions relating to those
125 laws;
- 126 l. periodic disbursement of Funds to pay for construction, alteration, or renovation on the Land;
- 127 m. Issuing Agent or Approved Attorney acting in the capacity of a qualified intermediary or
128 facilitator for tax deferred exchange transactions as provided in Section 1031 of the Internal
129 Revenue Code; or
- 130 n. wire fraud, mail fraud, telephone fraud, facsimile fraud, unauthorized access to a computer,
131 network, email, or document production system, business email compromise, identity theft, or
132 diversion of Funds to a person or account not entitled to receive the Funds ~~perpetrated by~~
133 ~~anyone other than~~. Condition and Exclusion 3.n. does not modify or limit:
- 134 i. Your coverage in the Company Policy; or
135 ii. indemnification in this letter for Your loss solely caused by fraud, theft, dishonesty, or
136 misappropriation by the Issuing Agent, or Approved Attorney, in handling Your Funds or
137 documents in connection with the closing, but only to the extent that the fraud, theft,
138 dishonesty, or misappropriation adversely affects the status of the Title to the Land or
139 the validity, enforceability, or priority of the lien of the Insured Mortgage on the Title to
140 the Land.
- 141
- 142 4. If the closing is to be conducted by an Approved Attorney, a Commitment in connection with the Real
143 Estate Transaction must have been received by You prior to the transmittal of Your final closing
144 instructions to the Approved Attorney.
- 145
- 146 5. When the Company ~~shall have indemnified~~ indemnifies You pursuant to this letter, it ~~shall be~~ is
147 subrogated to all rights and remedies You have against any person, entity, or property had You not
148 been indemnified. The Company's liability for indemnification ~~shall be~~ is reduced to the extent that
149 You have impaired the value of this ~~right of~~ subrogation. ~~— right.~~
- 150
- 151 6. The Company's liability for loss under this letter ~~shall~~ does not exceed the least of:

REDLINE OF 04-02-2021 V.02.00 AGAINST 12-01-2018 REVISION WITH 08-01-2019 TECHNICAL CORRECTION

- 152 a. the amount of Your Funds;
- 153 b. the Company's liability under the Policy at the time written notice of a claim is made under this
- 154 letter;
- 155 c. the value of the lien of the Insured Mortgage;
- 156 d. the value of the Title to the Land insured or to be insured under the Policy at the time written
- 157 notice of a claim is made under this letter; or
- 158 e. the amount stated in ~~Section Requirement~~ 3 of the Requirements.
- 159
- 160 7. The Company ~~will be~~ is liable only to the ~~holder~~ owner of the Indebtedness at the time that payment is
- 161 made. ~~This Section Condition and Exclusion~~ 7 does not apply to a purchaser, borrower, or lessee.
- 162
- 163 8. Payment to You or to the owner of the Indebtedness under either the Policy or from any other source
- 164 ~~shall reduce~~ reduces liability under this letter by the same amount. Payment in accordance with the
- 165 terms of this letter ~~shall constitute~~ constitutes a payment pursuant to the Conditions of the Policy.
- 166
- 167 9. The Issuing Agent is the Company's agent only for the limited purpose of issuing policies. Neither the
- 168 Issuing Agent nor the Approved Attorney is the Company's agent for the purpose of providing closing
- 169 or settlement services. The Company's liability for Your loss arising from closing or settlement
- 170 services is strictly limited to the contractual protection expressly provided in this letter. The Company
- 171 ~~shall have no liability~~ is not liable for loss resulting from the fraud, theft, dishonesty, misappropriation,
- 172 or negligence of any party to the Real Estate Transaction, the lack of creditworthiness of any borrower
- 173 connected with the Real Estate Transaction, or the failure of any collateral to adequately secure a
- 174 loan connected with the Real Estate Transaction.
- 175
- 176 10. ~~In no event shall the~~ The Company ~~be~~ is ~~not~~ not liable for a loss if the written notice of a claim is not
- 177 received by the Company within one year from the date of the transmittal of Funds. The condition
- 178 that the Company must be provided with written notice under ~~this Section Condition and Exclusion~~ 10
- 179 ~~shall~~ will not be excused by lack of prejudice to the Company.
- 180
- 181 11. You must promptly send written notice of a claim under this letter to the Company at its principal
- 182 office at _____ . If the Company is prejudiced by Your failure to
- 183 provide prompt notice, the Company's liability to You under this letter ~~shall be~~ is reduced to the extent
- 184 of the prejudice.
- 185
- 186 12. ~~Whenever~~ When requested by the Company, You, at the Company's expense, ~~shall~~ must:
- 187 a. give the Company all reasonable aid in:
- 188 i. securing evidence, obtaining witnesses, prosecuting, or defending any action or
- 189 proceeding, or effecting any settlement; and
- 190 ii. any other lawful act that in the opinion of the Company may be necessary or desirable
- 191 to enable the Company's investigation and determination of its liability under this letter;
- 192 b. deliver to the Company ~~any~~ all records, in whatever medium maintained, that pertain to the Real
- 193 Estate Transaction or any claim under this letter; and
- 194 c. submit to ~~an~~ examination under oath by any authorized representative of the Company with
- 195 respect to any such records, the Real Estate Transaction, any claim under this letter or any
- 196 other matter reasonably deemed relevant by the Company.
- 197
- 198 13. The Company ~~shall have no liability~~ is not liable under this letter if:
- 199 a. the Real Estate Transaction has not closed within one year from the ~~date~~ Date of this letter; or
- 200 b. at any time after the ~~date~~ Date of this letter, but before the Real Estate Transaction closes, the
- 201 Company provides written notice of termination of this letter to the Addressee at the address
- 202 set forth above.

REDLINE OF 04-02-2021 V.02.00 AGAINST 12-01-2018 REVISION WITH 08-01-2019 TECHNICAL CORRECTION

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- 14. The protection of this letter extends only to real estate in [State], and any court or arbitrator ~~shall~~**must** apply the law of ~~the jurisdiction where the Land is located~~**that state** to interpret and enforce the terms of this letter. ~~In neither case shall the~~**The** court or arbitrator ~~must not~~ apply ~~its~~ conflicts of law principles to determine the applicable law. Any litigation or other proceeding under this letter must be filed only in a state or federal court within the United States of America or its territories having **appropriate** jurisdiction.
- 15. There ~~shall be~~**is** no right for any claim under this letter to be arbitrated or litigated on a class action basis.
- [16.** Either the Company or You may demand that any claim arising under this letter be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association, unless You have a Policy for the Real Estate Transaction with an Amount of Insurance greater than \$2,000,000. If You have a Policy for the Real Estate Transaction with an Amount of Insurance greater than \$2,000,000, a claim arising under this letter may be submitted to arbitration only when agreed to by both the Company and You. **[If the Real Estate Transaction solely involves a one-to-four family residence and You are the purchaser or borrower, the Company will pay the costs of arbitration.]]**

This letter supersedes and cancels any previous letter or similar agreement for closing protection that applies to the Real Estate Transaction and may not be modified by the Issuing Agent or Approved Attorney.

BLANK TITLE INSURANCE COMPANY

By: _____
[Authorized Signatory]

(The name of a particular issuing agent or approved attorney may be inserted in lieu of reference to Issuing Agent or Approved Attorney contained in this letter and the words "Underwritten Title Company" may be inserted in lieu of Issuing Agent.)

