



## **Mountain Title Services Inc.**

Attached is your Title Insurance Policy insuring clear title (subject to those exceptions shown in Schedule B) to the real property you recently purchased. The fee for this policy was collected at closing, and there will be no further premium charges for as long as you own this property. If you have any questions or concerns, please feel free to call me at the number listed below.

At **Mountain Title**, we think your purchase is as important as you do, and we are pleased to have been a part of this transaction.

If you have any future title or closing needs, we hope that you will again choose **Mountain Title Services**.

Sincerely;

VALERIE J. SMELSER  
Title Officer

enclosure

# OWNER'S POLICY OF TITLE INSURANCE

Issued by **Commonwealth Land Title Insurance Company**



Commonwealth Land Title Insurance Company is a member of the LandAmerica family of title insurance underwriters.

**POLICY NUMBER**

**A60 -Z 010436**

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, COMMONWEALTH LAND TITLE INSURANCE COMPANY, a Pennsylvania corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

IN WITNESS WHEREOF, COMMONWEALTH LAND TITLE INSURANCE COMPANY has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, the Policy to become valid when countersigned by an authorized officer or agent of the Company.

## COMMONWEALTH LAND TITLE INSURANCE COMPANY

Attest: *Wm. Chadwick Perrine*

Secretary



By:

*Janet A. Alpert*

President

### 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. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (a) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (b) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (i) to timely record the instrument of transfer; or
    - (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

OWNER'S POLICY

**SCHEDULE A**

Order Number: MT 32779

Policy No.: A60-Z010436

Date of Policy: May 13, 2004 at 2:42 PM

Amount of Insurance: \$4,720,000.00

**Premium: \$12,792.00  
(REISSUE-RATE)**

1. Name of Insured:

SPIRIT FINANCE ACQUISITIONS, LLC, A Delaware limited liability company

2. The estate or interest in the land which is covered by this policy is:

FEE SIMPLE

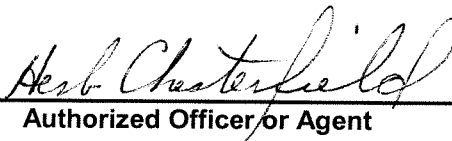
3. Title to the estate or interest in the land is vested in:

SPIRIT FINANCE ACQUISITIONS, LLC, A Delaware limited liability company

3. The land referred to in this policy as described in the said instrument is situated in the County of Cascade, State of Montana, and is identified as follows:

SEE ATTACHED LEGAL DESCRIPTION

**MOUNTAIN TITLE SERVICES, INC., #17 5<sup>th</sup> Street North, Great Falls, Montana 59401**  
Countersigned:

  
Authorized Officer or Agent

**SCHEDULE A**

Order Number: MT 32779

**LEGAL DESCRIPTION**

**PARCEL 1:**

Lot 3, Block 2, **EXCEPT** the North 20 feet thereof, **FIFTEENTH ADDITION to Great Falls**, Cascade County, Montana, according to the official map or plat thereof, on file and of record in the office of the Clerk and Recorder of said County.

(**According** to Reel 279, Document 1224, records of Cascade County, Montana.)

**EXCEPT** the North 20 feet thereof heretofore conveyed to the State of Montana by Deed recorded May 4, 1955 in Book 243, Page 95, records of Cascade County, Montana.

**PARCEL 2:**

Lot 4, Block 2, **FIFTEENTH ADDITION to Great Falls Townsite**, Cascade County, Montana, according to the official map or plat thereof, on file and of record in the office of the Clerk and Recorder of said County.

**EXCEPT** the North 20 feet thereof heretofore conveyed to the State of Montana by Deed recorded May 4, 1955 in Book 243, Page 97, records of Cascade County, Montana.

**PARCEL 2:**

A perpetual, non-exclusive easement for ingress and egress by vehicular and pedestrian traffic for the benefit of Parcels 1 and 2 above, as defined, created and granted in that certain Easement and Restriction Agreement, executed by GF-10<sup>th</sup> AVENUE, L.P., a Texas limited partnership, to GUS & JACK'S TIRE SHOP, a Montana corporation, dated May 15, 2003, recorded July 1, 2003, on Document No. R0059039, records of Cascade County, Montana.

## **SCHEDULE B**

Order Number: MT32779

Policy No.: A60-Z010436

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

### **GENERAL (STANDARD) EXCEPTIONS**

1. Any facts, rights, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession, or claiming to be in possession, thereof.
2. Easements, liens, encumbrances, or claims thereof, which are not shown by the public records.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey of the land would disclose, and which are not shown by the public records.
4. Any lien, or right to a lien, imposed by law for services, labor, or material heretofore or hereafter furnished, which lien, or right to a lien, is not shown by the public records.
5. a) Unpatented mining claims b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; c) Indian treaty or aboriginal rights, including, but not limited to, easements or equitable servitudes; or, d) water rights, claims or title to water, whether or not the matters excepted under a), b), c) or d) are shown by the public records.
6. Taxes or assessments which are not now payable or which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
7. Any service, installation, connection, maintenance or construction charges for sewer, water, electricity, or garbage collection or disposal or other utilities unless shown as an existing lien by the public records.

### **Special Exceptions:**

8. Terms, conditions and restrictions contained in Easement and Restriction Agreement, executed by GF-10<sup>TH</sup> AVENUE, L.P., a Texas limited partnership, to GUS & JACK'S TIRE SHOP, a Montana corporation, dated May 15, 2003, recorded July 1, 2003, on Document No. R0059039, records of Cascade County, Montana, as follows in part: "...a perpetual, non-exclusive easement for vehicular and pedestrian ingress and egress on, over and across those portions...on which the Driveways may hereafter be situated...".
9. Easement, and any conditions or restrictions relating thereto, contained in document executed by GREAT FALLS TOWNSITE CO. to THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, a Colorado Corporation, granting "...the right to construct, operate, maintain and remove such underground communications and other facilities from time to time, as Grantee may require upon, over, under and across...the W1/2 of Section 13, Township 20 North, Range 3 East, Cascade County, Montana...., recorded April 20, 1928 in Book 133, Page 257, records of Cascade County, Montana.  
(Exact location of easement is not specifically identified.)

10. Right of Way Easement, and any conditions or restrictions relating thereto, contained in document executed by GREAT FALLS TOWNSITE COMPANY, a corporation, to THE MONTANA POWER COMPANY recorded October 29, 1929 in Book 138, Page 75, records of Cascade County, Montana, granting "...the right to construct, maintain, operate and remove an electric power line and communication system over, along, under and across that certain real property located in Cascade County, Montana, and particularly described as follows:  
North ½ Section 13, Township 20 North, Range 3 East  
Together with reasonable right of access to said right of way over and along existing roads and trails and the right to clear and remove all timber and brush from the right of way \_\_\_\_\_ feet on each side of said line and to cut and remove such trees from outside of such right of way which may endanger said line...".  
(As shown on survey dated March 25, 2003, prepared by Dwight L. Axelsen, RPLS #8641.)
11. Easement, and any conditions or restrictions relating thereto, contained in Reciprocal Grant and Abandonment of Easement executed by and between the CITY OF GREAT FALLS, a municipal corporation of the State of Montana, and GF-10<sup>TH</sup> AVENUE, L.P., a Texas limited partnership, "...10<sup>th</sup> Avenue L.P., does hereby convey, transfer and grant unto the City a perpetual right-of-way and easement for the maintenance, enlarging, reducing, or removal of underground utility lines, together with all necessary appurtenances thereto, in, under through, and across...A 9 to 10 foot wide easement within the boundaries of Lots 3 & 4, Block 2, Fifteenth Addition...", as recorded October 15, 2003 on Document No. R0069098, records of Cascade County, Montana.  
**Amended** by CORRECTED EASEMENT, recorded April 27, 2004, on R0081273, records of Cascade County, Montana.
12. Easement, and any conditions or restrictions relating thereto, contained in Electric Powerline Easement executed by GF – 10<sup>th</sup> AVENUE, L.P., to NORTHWESTERN CORPORATION, a Delaware corporation, granting in part "...an easement 20 feet in width upon which to construct, operate, maintain, replace, upgrade and remove an electric powerline and guy wires, over, along and across that certain real property located in...Lot 4, Block 2, Fifteenth Addition ...", as recorded December 15, 2003 on Document No. R0073227, records of Cascade County, Montana.  
**Amended** by CORRECTED EASEMENT, recorded April 22, 2004, on R0080908, records of Cascade County, Montana.
13. Patent reservations contained in United States Patent to JOHN WOODS, recorded May 6, 1890 in Book 1 of Patents, Page 186, records of Cascade County, Montana.

ENDORSEMENT ATTACHED TO AND MADE A PART  
OF MORTGAGEE'S POLICY OF TITLE INSURANCE  
SERIAL NUMBER A60-Z010436 ISSUED BY  
**COMMONWEALTH LAND TITLE  
INSURANCE COMPANY**  
HEREIN CALLED THE COMPANY

Order No.: MT 32779

Charge:

The Company hereby insures the owner of the indebtedness secured by the insured mortgage against loss or damage which the insured shall sustain by reason of:

1. The existence of any of the following:
  - (a) Covenants, conditions, or restrictions under which the lien of the mortgage referred to in Schedule A can be cut off, subordinated, or otherwise impaired;
  - (b) Present violations on the land of any enforceable covenants, conditions or restrictions;
  - (c) Except as shown in Schedule B, encroachments of buildings, structures, or improvements located on the land, onto adjoining lands, or any encroachments onto the land of buildings, structures, or improvements located on adjoining lands.
2. (a) Any future violations on the land of any covenants, conditions, or restrictions occurring prior to acquisition of title to the estate or interest referred to in Schedule A by the insured, provided such violations result in impairment or loss of the lien of the mortgage to in Schedule A, or result in impairment in loss of the title to the estate or interest referred to in Schedule A if the insured shall acquire such title in satisfaction of the indebtedness secured by the insured mortgage.  
(b) Unmarketability of the title to the estate or interest referred to in Schedule A by reason of any violations on the land, occurring prior to acquisition of title to the estate or interest referred to in Schedule A by the insured, of any covenants, conditions or restrictions.
3. Damage to existing improvements, including lawns, shrubbery or trees
  - (a) Which are located or encroach upon that portion of the land subject to any easement shown in Schedule B, which damage results from the exercise of the right to use or maintain such easement for the purposes for which the same was granted or reserved;
  - (b) Resulting from the exercise of any right to use the surface of the land for the extraction or development of the minerals excepted from the description of the land or shown as reservation in Schedule B.
4. Any final court order or judgment requiring removal from any land adjoining the land of any encroachment shown in Schedule B.  
Wherever in this endorsement any or all of the words "covenants", "conditions" or "restrictions" appear, they shall not be deemed to refer to or include the terms, covenants, conditions or restrictions contained in any lease.

For purposes of this endorsement, the words "covenants", "conditions", or "restrictions" shall not be deemed to refer to or include any covenants, conditions, or restrictions relating to environmental protection, except to the extent that a notice of a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy and is not excepted in Schedule B.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face thereof.

**COMMONWEALTH LAND TITLE INSURANCE COMPANY**

Dated: 5/13/2004

By:

*Janet A. Alpert*

President

Attest:

*Wm. Chadwick Perrine*

Secretary

MOUNTAIN TITLE SERVICES, INC.

*Herb Chesterfield*  
\_\_\_\_\_  
Authorized Signatory

**Endorsement**

Attached to Policy No. A60-Z010436

Issued by



**Commonwealth**  
Land Title Insurance Company

To be annexed to and form a part of Policy No. A60-Z010436 insuring SPIRIT FINANCE ACQUISITIONS, LLC, A Delaware limited liability company

as set forth in said Policy. The said Policy is hereby amended in the following manner:

The Company hereby assures the insured against loss or damage which the insured shall sustain by reason of any inaccuracy in the following assurance:

That no portion of the property described in Schedule A lies within a tax parcel which includes any property other than the property described on Schedule A.

The total liability of the Company under said Policy and any endorsements attached thereto shall not exceed, in the aggregate, the face amount of said policy and cost which the Company is obligated under the provisions of said Policy to pay.

This endorsement is made a part of said Policy and is subject to the exclusions, schedules, endorsements, conditions, stipulations and terms thereof, except as modified by the provisions hereof.

Nothing herein contained shall be construed as extending or changing the effective date of said Policy, unless otherwise expressly stated.

IN WITNESS WHEREOF COMMONWEALTH LAND TITLE INSURANCE COMPANY has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the 13th day of May 2004.

Countersigned

*Herb Chesterfield*

Authorized Officer or Agent

Tax Parcel Endorsement  
MSR Sp. End. Form 006 (11/28/95)



COMMONWEALTH LAND TITLE INSURANCE COMPANY

By

*Richard Smith*

President

Attest:

*James J. D. Lynch, Jr.*



**LAND ABUTS STREET  
CLTA 103.7 (6-14-96)**

Attached to Policy Number: A60-Z010436

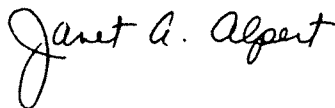
Issued by


COMMONWEALTH LAND TITLE INSURANCE COMPANY

The Company hereby insures the insured against loss or damage which the insured shall sustain by reason of the failure of the land to abut upon a physically open street known as 716, 718, 722, 726 10th Ave S, Great Falls, MT 59405

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

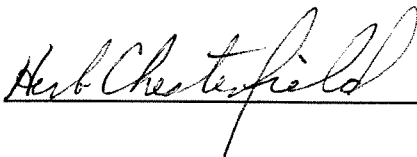
COMMONWEALTH LAND TITLE INSURANCE COMPANY

By:  President

Attest:  Secretary

MOUNTAIN TITLE SERVICES, INC.

Dated: May 13, 2004

By: 

ENDORSEMENT ATTACHED TO AND MADE A PART  
OF MORTGAGEE'S POLICY OF TITLE INSURANCE  
SERIAL NUMBER ISSUED BY  
**COMMONWEALTH LAND TITLE  
INSURANCE COMPANY**  
HEREIN CALLED THE COMPANY

Order No.: MT32779

Charge:

The Company hereby insures the owner of the indebtedness secured by the insured mortgage against loss or damage which the insured shall sustain by reason of:

1. Any incorrectness in the assurance that, at Date of Policy:
  - a) There are no covenants, conditions, or restrictions under which the lien of the mortgage referred to in Schedule A can be divested, subordinated, or extinguished, or its validity, priority or enforceability impaired;
  - b) Unless expressly excepted in Schedule B
    - 1) There are no present violations on the land of any enforceable covenants, conditions or conditions or restrictions, nor do any existing improvements on the land violate any building setback lines shown on a plat of subdivision recorded or filed in the public records.
    - 2) Any instrument referred to in Schedule B as containing covenants, conditions, or restrictions on the land does not, in addition,
      - (i) establish an easement on the land; (ii) provide a lien for liquidated damages; (iii) provide for a private charge or assessment; (iv) provide for an option to purchase, a right of first refusal or the prior approval of a future purchaser or occupant.
    - 3) There is no encroachment of existing improvements located on the land onto adjoining land, nor any encroachment onto the land of existing improvements located on adjoining land.
    - 4) There is no encroachment of existing improvements located on the land onto that portion of the land subject to any easement excepted in Schedule B.
    - 5) There are no notices of violation of covenants, conditions and restrictions relating to environmental protection recorded or filed in the public records.
2. Any future violation of the land of any existing covenants, conditions or restrictions occurring prior to the acquisition of title to the estate or interest in the land by the insured, provided the violation results in:
  - a) invalidity, loss of priority, or unenforceability of the lien of the insured mortgage; or
  - b) loss of title to the estate or interest in the land if the insured shall acquire title in satisfaction of the indebtedness secured by the insured mortgage.
3. Damage to existing improvements, including lawns, shrubbery or trees:
  - a) which are located on or encroach upon that portion of the land subject to any easement excepted in Schedule B, which damage results from the exercise of the right to maintain the easement for the purpose for which it was granted or reserved.
  - b) Resulting from the future exercise of any right to use the surface of the land for the extraction or development of minerals excepted from the description of the land or excepted in Schedule B.
4. Any final court order or judgment requiring the removal from any land adjoining the land of any encroachment excepted in Schedule B.
5. Any final court order or judgment denying the right to maintain any existing improvements on the land because of any violation of covenants, conditions, or restrictions or building setback lines shown on a plat of subdivision recorded or filed in the public records.

Wherever in this endorsement the words "covenants, conditions or restrictions" appear, they shall not be deemed to refer to or include the terms, covenants, conditions or limitations contained in an instrument creating a lease.

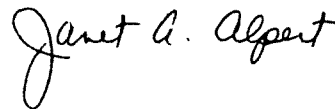
As used in paragraphs 1(b)(1) and 5, the words "covenants, conditions or restrictions" shall not be deemed to refer to or include any covenants, conditions or restrictions relating to environmental protection.

This Endorsement is made a part of the policy and is subject to the exclusions, schedules, endorsements, conditions, stipulations and terms thereof, except as modified by the provisions hereof. Except to the extent expressly stated, this Endorsement neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and prior endorsements, nor does it increase the face amount thereof.

IN WITNESS WHEREOF, COMMONWEALTH LAND TITLE INSURANCE COMPANY has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the 13<sup>th</sup> day of May, 2004

COMMONWEALTH LAND TITLE INSURANCE COMPANY

By:



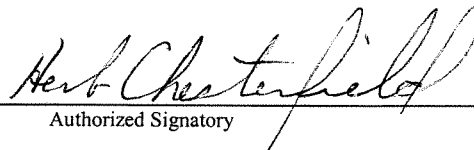
President

Attest:



Secretary

MOUNTAIN TITLE SERVICES, INC.

  
Authorized Signatory

**ALTA 3.1 ZONING—COMPLETED STRUCTURE (10-17-98)**

Attached to Policy Number:

Issued by

COMMONWEALTH LAND TITLE INSURANCE COMPANY

- 1. The Company insures the insured against loss or damage in the event that, at Date Of Policy:
  - (a) According to applicable zoning ordinances and amendments thereto, the land is not classified Zone Commercial.
  - (b) The following use or uses are not allowed under that classification: Retail Store

and there shall be no liability under this paragraph 1(b) if the use or uses are not allowed as the result of any lack of compliance with any conditions, restrictions or requirements contained in the zoning ordinances and amendments thereto mentioned above, including but not limited to the failure to secure necessary consents or authorizations as a prerequisite to the use or uses.

- 2. The Company further insures the insured against loss or damage arising from a final decree of a court of competent jurisdiction
  - (a) prohibiting the use of the land, with any structure presently located thereon, as insured in paragraph 1(b); or
  - (b) requiring the removal or alteration of the structure on the basis that, at Date of Policy, the ordinances and amendments thereto have been violated with respect to any of the following matters:
    - (i) Area, width or depth of the land as a building site for the structure;
    - (ii) Floor space area of the structure;
    - (iii) Setback of the structure from the property lines of the land; or
    - (iv) Height of the structure; or
    - (v) Number of parking spaces.

There shall be no liability under this endorsement based on:

- (a) The invalidity of the ordinances and amendments thereto mentioned above until after a final decree of a court of competent jurisdiction adjudicating the invalidity, the effect of which is to prohibit the use or uses.
  - (b) The refusal of any person to purchase, lease or lend money on the estate or interest covered by this policy.
- This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and prior endorsements, nor does it increase the face amount thereof.

IN WITNESS WHEREOF, the Company has caused this Endorsement to be signed and sealed as of the 13th day of May, 2004, to be valid when countersigned by an authorized officer or agent of the Company, all in accordance with its By-Laws.

COMMONWEALTH LAND TITLE INSURANCE COMPANY

By: Janet A. Alpert  
President

Attest: Wm. Chadwick Perrine  
Secretary

MOUNTAIN TITLE SERVICES, INC.

Dated: May 13, 2004

By: Hert Chesterfield

ISSUED BY  
COMMONWEALTH LAND TITLE INSURANCE COMPANY

ALTA ENDORSEMENT  
ENVIRONMENTAL PROTECTION LIEN



**Commonwealth**

Attached to and made a part of Policy Number A60-Z010436

The Company insures the insured against loss or damage sustained by reason of lack of priority of the lien of the insured mortgage over:

any environmental protection lien which, at Date of Policy, is recorded in those 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, or filed in the records of the clerk of the United States district court for the district in which the land is located, except as set forth in Schedule B

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

IN WITNESS WHEREOF COMMONWEALTH LAND TITLE INSURANCE COMPANY has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the 13th day of May ~~19~~2004

Countersigned

COMMONWEALTH LAND TITLE INSURANCE COMPANY

By Herb Chesterfield  
Authorized Officer or Agent



By: Michael  
Chairman and Chief Executive Officer

Attest: David E. Hanley  
Secretary

**CONTIGUITY OF PARCELS  
CLTA 116.4 (6-14-96)**

Attached to Policy Number: A60-Z010436

Issued by

COMMONWEALTH LAND TITLE INSURANCE COMPANY

The Company hereby insures the insured against loss or damage which the insured shall sustain by reason of the failure of the land described in Schedule A to be contiguous each parcel to the other.

This endorsement is made a part of the policy and is subject to all of the terms and provisions thereof and of any prior endorsements thereto. Except to the extent expressly stated, it neither modifies any of the terms and provisions of the policy and any prior endorsements, nor does it extend the effective date of the policy and any prior endorsements, nor does it increase the face amount thereof.

Dated: May 13, 2004

COMMONWEALTH LAND TITLE INSURANCE COMPANY

By:

*Janet A. Alpert*

President

Attest:

*Wm. Chadwick Perrine*

Secretary

MOUNTAIN TITLE SERVICES, INC.

BY

*Herb Chesterfield*

## CONDITIONS AND STIPULATIONS

### 1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

(b) "insured claimant": an insured claiming loss or damage.

(c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land": the land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "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.

(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

### 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 of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. 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.

### 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 title or interest as insured, 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 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 title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable 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 title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

### 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 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 defect in, or lien or encumbrance on the title, or other 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 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.

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.

Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, 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.

**CONDITIONS AND STIPULATIONS**  
(Continued)

**7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE.**

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; or,
- (ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

- (i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or
- (ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

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

**8. APPORTIONMENT.**

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

**9. LIMITATION OF LIABILITY.**

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, 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 the title as insured.

(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.

**10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.**

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

**11. LIABILITY NONCUMULATIVE.**

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

**12. 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.

**13. 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.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

**(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, 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.

**14. ARBITRATION.**

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. 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 of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 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 \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

**15. 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 title to the estate or 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.

**16. SEVERABILITY.**

In the event any provision of the 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.

**17. NOTICES WHERE SENT.**

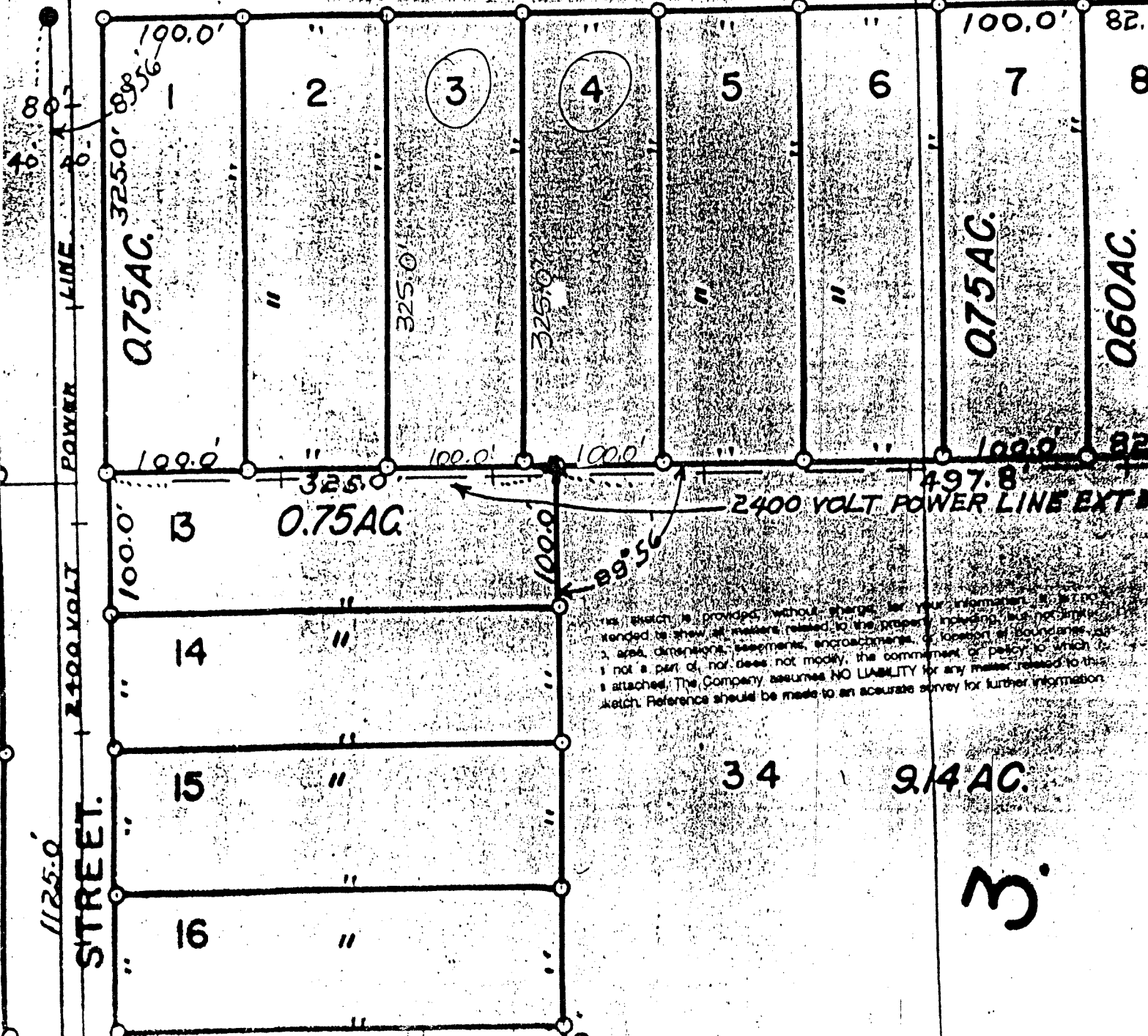
All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to: Consumer Affairs Department, P.O. Box 27567, Richmond, Virginia 23261-7567.

9TH ST.

10TH ST.

FIRS

HIGHWAY.



This sketch is provided without charge for your information. It is not intended to show all matters related to the property, including but not limited to area, dimensions, easements, encroachments, or location of boundaries, and is not a part of, nor does it modify, the commitment or policy to which is attached. The Company assumes NO LIABILITY for any matter related to this sketch. Reference should be made to an accurate survey for further information.

3.4

3.4 AC.

3.



# LANDAMERICA

## PRIVACY POLICY NOTICE

Dear LandAmerica Customer:

The Financial Services Modernization Act recently enacted by Congress has brought many changes to the financial services industry, which includes insurance companies and their agents. One of the changes is that we are now required to explain to our customers the ways in which we collect and use customer information.

The statement attached to or on the reverse side of this letter is the privacy policy of the LandAmerica family of companies. The three largest members of the family – Commonwealth Land Title Insurance Company, Lawyers Title Insurance Corporation, and Transnation Title Insurance Company – may issue policies and handle real estate closings in virtually every part of the country. A number of other companies in the family provide other real estate services, and some operate more locally. You may review a list of LandAmerica companies on our website. You may also visit our website for an explanation of our privacy practices relating to electronic communication.

Our concern with the protection of your information has been a part of our business since 1876, when the company that is now Commonwealth Land Title Insurance Company issued its first policy. We will continue to protect the privacy, accuracy, and security of customer information given to us.

No response to this notice is required, but if you have questions, please write to us:

LandAmerica Privacy  
P.O. Box 27567  
Richmond, VA 23261-7567

### LandAmerica Companies

Title Insurance Companies: Commonwealth Land Title Insurance Company, Commonwealth Land Title Insurance Company of New Jersey, Industrial Valley Title Insurance Company, Land Title Insurance Company, Lawyers Title Insurance Corporation, Title Insurance Company of America, Transnation Title Insurance Company, Transnation Title Insurance Company of New York  
Relocation and Mortgages: Commonwealth Relocation Services, CRS Financial Services, Inc., LandAmerica Account Servicing, Inc.

Title Agents: Austin Title Company, ATACO, Inc., Albuquerque Title Company, Atlantic Title & Abstract Company, Brighton Title Services Company, Capitol City Title Services, Inc., CFS Title Insurance Agency, Charleston Title Agency; Charter Title Company of Fort Bend, Galveston, and Sugarland; Commercial Settlements, Inc., Commonwealth Land Title Company; Commonwealth Land Title Company of Austin, Dallas, Fort Worth, Houston, Washington, Congress Abstract Corp., Cornerstone Residential Title, Cumberland Title Company, First Title & Escrow, Inc., Gulf Atlantic, Harbour Title, HL Title Agency, Lawyers Title Company; Lawyers Title of Arizona, El Paso, Galveston, Nevada, Pueblo, San Antonio, Lawyers Title Settlement Company, Lion Abstract, Longworth Insured, Louisville Title Agency of Central Ohio, Lorain County Title Company, M/I Title Agency, NIA/Lawyers Title Agency, Oregon Title, Park Title, Partners Title Company, Pikes Peak Title Services, RE/Affirm Title Agency, Rainier Title Company, Residential Abstract, Residential Title, Rio Rancho Title, Texas Title Company, Title Transfer Service, Inc., TransOhio Residential Title Agency, Transnation Title & Escrow, Union Title Agency, University Title Services, Wilson Title Company  
Appraisals and Ancillary Services: LandAmerica OneStop, Inc.

## LANDAMERICA PRIVACY POLICY

*What kinds of information we collect.* Most of LandAmerica's business is title insurance, but there are companies in our family that provide other real estate services to consumers. We collect information about you, (for instance, your name, address, telephone number), and information about your transaction, including the identity of the real property that you are buying or financing. We obtain a copy of any deeds, notes, or mortgages that are involved in the transaction. We may get this information from you or from the lender, attorney, or real estate broker that you have chosen. Our title insurance companies then obtain information from the public records about the property so that we can prepare a title insurance policy. When we provide closing, escrow, or settlement services, mortgage lending, or mortgage loan servicing, we may get your social security number, and we may receive additional information from third parties including appraisals, credit reports, land surveys, escrow account balances, and sometimes bank account numbers to facilitate the transaction. If you are concerned about the information we have collected, please write to us.

*How we use this information.* The company giving or specifically adopting this notice does not share your information with marketers outside its own family. There's no need to tell us to keep your information to ourselves because we share your information only to provide the service requested by you or your lender, or in other ways permitted by law. The privacy laws permit some sharing without your approval. We may share internally and with nonaffiliated third parties in order to carry out and service your transaction, to protect against fraud or unauthorized transactions, for institutional risk control, and to provide information to government and law enforcement agencies. Companies within a family may share certain information among themselves in order to identify and market their own products that they think may be useful to you. Credit information about you is shared only to facilitate your transaction or for some other purpose permitted by law.

*How we protect your information.* We restrict access to nonpublic personal information about you to those employees who need the information to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with law to guard your nonpublic personal information. We reinforce the company's privacy policy with our employees.

*Agents that may be covered by this policy.* Often, your transaction goes through a title insurance agent. Agents that are part of the LandAmerica family are covered by this policy. **Agents that are not part of the LandAmerica family may specifically, in writing, adopt our policy statement.**

**MOUNTAIN TITLE SERVICES INC.  
PRIVACY POLICY**

We collect nonpublic personal information about you from the following sources:

- Information we receive from you, such as your name, address, telephone number, or social security number;
- Information about your transactions with us, our affiliates, or others. We receive this information from your lender, attorney, real estate broker, etc.; and
- Information from public records

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

We restrict access to nonpublic personal information about you to those employees who need to know that information to provide the products or services requested by you or your lender.

We maintain physical, electronic, and procedural safeguards that comply with appropriate federal and state regulations.

**AS AN AGENT OF LAND AMERICA, EFFECTIVE JULY 1, 2001, WE  
ADOPT THE ATTACHED PRIVACY STATEMENT.**