



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

NAVAJO REGION

P.O. Box 1060

Gallup, New Mexico 87305



In Reply
420 Branch of Real Estate Services

MAR 16 2017

7015.1660.0001.1763.4772

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

I certify that this document is a true
and exact copy of the original

3/22/17

Signature

Date

Honorable Russell Begaye

President, The Navajo Nation

Attention: Ms. Sage Garland, Attorney, Navajo Nation Department of Justice

Dear President Begaye:

Regarding the Fee-To-Trust application made by the Navajo Nation, Arizona, New Mexico & Utah, enclosed is a copy of the original final United States of America Policy of Title Insurance, as underwritten on Fidelity National Title, numbered 7279-1-15030138-2017.2747531-210744042.

The parcels pertinent to the application are known as the Tse Bonito Property and consists of 85.68 acres which are located immediately north of U.S. Highway 264, within close proximity to the Navajo reservation boundaries, in western McKinley County, New Mexico. The application was filed pursuant to the Navajo-Hopi Settlement Act of 1974, Public Law No. 93-531, 88 Stat. 1712, 25 U.S.C. § 640d, *et seq.* (1980) (“the Settlement Act”) and the Navajo-Hopi Relocation Amendments of 1980, Public Law No. 96-305, 94 Stat. 929, 25 U.S.C. § 640d, *et seq.* (“Amendments”). The parcel is situated within Section 2, Township 16 North, Range 21 West, New Mexico Principal Meridian, McKinley County, New Mexico.

Enclosed are the following:

- 1) Copy of original final United States of America Policy of Title Insurance numbered 7279-1-1503138-2017.2747531-210744042 – Underwriter, Fidelity National Title;
- 2) Copy of original General Warranty Deed:
 - a) as recorded in the Office of the County Clerk of McKinley County, New Mexico on September 26, 2016 as Document numbered 377717; and
 - b) as recorded in the United States of Interior Bureau of Indian Affairs Land Titles and Records Office, Southwest, on September 30, 2016 at Document numbered N10SO16081.

Please make these copies a part of your permanent file. If you should have any questions, you may

RECEIVED MAR 24 2017

contact Gloria Lee, Realty Specialist at (505) 863-8229 and/or Simone Jones, Realty Officer, at (505) 863-8262.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Simone Jones', written in black ink.

Simone Jones
Navajo Regional Realty Officer

cc: Sage Garland, Staff Attorney, Navajo Nation Department of Justice
Christopher J. Bavasi, Executive Director, Office of Navajo and Hopi Indian Relocation

**UNITED STATES OF AMERICA
POLICY OF TITLE INSURANCE**

Issued By
FIDELITY NATIONAL TITLE INSURANCE COMPANY

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California Company 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;
5. In instances where the insured acquires title to the land by condemnation, failure of the commitment for title insurance, as updated to the date of the filing of the *lis pendens* notice or the Declaration of Taking, to disclose the parties having an interest in the land as disclosed by the public records.
6. Title to the estate or interest described in Schedule A being vested other than as stated therein or being defective:
 - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the land occurring prior to the transaction vesting title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
 - (b) because the instrument of transfer vesting title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the public records
 - (i) to be timely, or
 - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.

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, the Company has caused this policy to be signed and sealed by its duly authorized officers.

Counter signed: ~

I certify that this document is a true and exact copy of the original

FIDELITY NATIONAL TITLE INSURANCE COMPANY

By: Veronica R. Williams
Authorized Officer or Agent

[Signature] Signature 3/22/17 Date

[Signature] By:

Veronica R. Williams
Gallup Title Company
308 S Second St
PO Box 998
Gallup, NM 87305
Tel: 505-722-4313
Fax: 505-863-4515



President

Attest:

[Signature]

Secretary



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 the policy;
 - (c) resulting in no loss or damage to the insured claimant; or
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Insuring provision 6).
4. This policy does not insure against the invalidity or insufficiency of any condemnation proceeding instituted by the United States of America, except to the extent set forth in Insuring provision 5.
5. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the title as shown in Schedule A is:
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Insuring provision 6.

CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

(a) "Insured": means 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": means an Insured claiming loss or damage.

(c) "knowledge" or "known": means 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": means the land described or referred to in Schedule (A)(C), 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)(C), 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": means mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": means 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": means 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



WHEN RECORDED, MAIL TO:

Sage Garland
Navajo Nation Department of Justice
P.O. Box 2010
Window Rock, Arizona 86515

Recorded at the
U.S. Department of the Interior
Bureau of Indian Affairs
Land Titles and Records Office
Document Number: N10SO16081
Date: 2016 SEP 30 10:56 AM
LTRO: Southwest

GENERAL WARRANTY DEED

The Navajo Nation, Arizona, New Mexico & Utah, a federally recognized tribe, Trust Beneficiary ("Grantor"), for good, valuable, and sufficient consideration paid, hereby grants, conveys, and warrants to The United States of America in Trust for the Benefit of the Navajo Nation, Arizona, New Mexico & Utah ("Grantee") that certain approximately 85.68 acre parcel of real property located in McKinley County, New Mexico (the "Property"), which Property is more particularly described in "Exhibit A" attached hereto.

This Deed is executed by Grantor and accepted by Grantee subject to all taxes, assessments, reservations in deeds, matters appearing in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities and any other item that may or may not appear of record existing as of the date of execution hereof (the "Permitted Exceptions").

Grantor warrants title to the Property against all persons whomsoever, subject to the Permitted Exceptions.

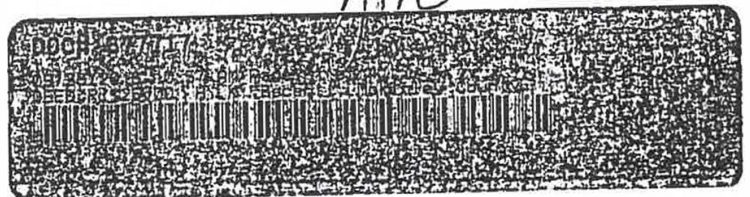
Executed this 23rd Day of September, 20 16.

GRANTOR:

THE NAVAJO NATION, Arizona, New Mexico & Utah

By: *Russell Begaye*
RUSSELL BEGAYE, PRESIDENT OF THE NAVAJO NATION

I certify that this document is a true
and exact copy of the original
[Signature] 3/22/17
Signature Date



CERTIFICATION

STATE OF New Mexico
COUNTY OF Mckinley) ss.

On this 23rd day of September, 2016, there personally appeared before me, a Notary Public, Russell Begaye, President of the Navajo Nation, personally known (or proved) to me to be the person whose name is subscribed to the above instrument, who acknowledged to me that he executed the instrument for and on behalf of the Navajo Nation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official stamp at my office in the County of Mckinley, the day and year in this certificate first above written.



Place Notary Seal Above

WITNESS MY HAND AND OFFICIAL SEAL.

[Handwritten Signature]

Notary Public

My Commission expires: 9/20/2017

DOCH 377717



EXHIBIT "A"

SECTION	TOWNSHIP	RANGE	SUBDIVISION	ACRES
Section 2	T16N	R21W	Pt. Lot 1	20.08 ± acres
			Pt. SW¼NE¼	3.89 ± acres
			Pt. SE¼NE¼	37.93 ± acres
			Pt. NE¼SE¼	21.68 ± acres
			Pt. NW¼SE¼	2.10 ± acres

New Mexico Principal Meridian (NMPM) McKinley County, New Mexico, containing 85.68 acres, more or less.

And further described as:

A tract of land situate partly within Lot 1; South Half Northeast Quarter (S½NE¼); North Half Southeast Quarter (N½SE¼) of Section 2, Township 16 North, Range 21 West, NMPM, in McKinley County, New Mexico, being more particularly described as follows:

Commence at the Closing Corner common to Sections 1 and 2, T16N, R21W, New Mexico Principal Meridian, a found United States Bureau of Land Management Cadastral Survey monument brass cap dated 1962; Said corner having NAD83 (1996) Latitude 35°39' 14.597"N and Longitude 109°01'25.24"W, also being the True Point of Beginning of the herein described tract of land;

Thence on east section line measured S00°26'09"W, 2,663.62 feet of said Section 2 to the east corner, a found Quarter (¼) Section Corner common to Sections 1 and 2, T16N, R21W, NMPM, United States Bureau of Land Management Cadastral Survey monument brass cap dated 1962; Said corner having NAD83 (1996) Latitude 35°38' 48.263"N and Longitude 109°01'25.094"W;

Thence continuously on said east section line measured S00°23'35"W, 1,096.44 feet to the southeast corner on the northerly highway right of way (R/W) line of New Mexico Highway 264, a found half (½) inch rebar with PS13606 Aluminum Cap;

Thence on said northerly right of way (R/W) line, measured N59°46'45"W, 2,056.91 feet to the intersection of easterly right of way (R/W) line of Indian Service Route N54, set Pk-Nail;

Thence on said easterly right of way (R/W) line, measured N29°17'04"E, 3,125.74 feet to the intersection of the north section line of said Section 2, set 5/8 inch rebar with NDOT orange plastic cap;

Thence on said north section line measured S89°39'40"E, 276.07 feet to the Point of Beginning, containing 85.68 acres, more or less.

DOCM 377717

09/26/2016 10:57 AM Page 3 of 4
DEED R \$25.00 H. K. Becenti, McKinley County



ACCEPTANCE OF CONVEYANCE

The foregoing conveyance from The Navajo Nation, Arizona, New Mexico & Utah, a federally recognized tribe, Trust Beneficiary, to The United States of America in Trust for the Benefit of the Navajo Nation, Arizona, New Mexico & Utah is hereby accepted and approved on behalf of the United States pursuant to the Navajo-Hopi Settlement Act of 1974 and the Navajo Hopi Relocation Amendments Act of 1980, codified at 25 U.S.C. § 640d, and the authority delegated to the Assistant Secretary-Indian Affairs by 209 DM 8, 230 DM1, 3 IAM 4, (Release No. 12-42, Reissue of 12/19/12), and further delegations.

[Handwritten Signature]

Sharon Pinto, Regional Director, Navajo Regional Office
Bureau of Indian Affairs
P.O. Box 1060
Gallup, New Mexico 87305

September 23, 2016
Date

Attest: Regional Director, Navajo Regional Office, Bureau of Indian Affairs

CERTIFICATION

STATE OF New Mexico)
COUNTY OF McKinley) ss.

On this 23rd day of September, 2016, there personally appeared before me, a Notary Public, Sharon Pinto, Navajo Regional Director, Bureau of Indian Affairs, United States Department of the Interior, personally known (or proved) to me to be the person whose name is subscribed to the above instrument, who acknowledged to me that she executed the instrument for and on behalf of the United States of America.

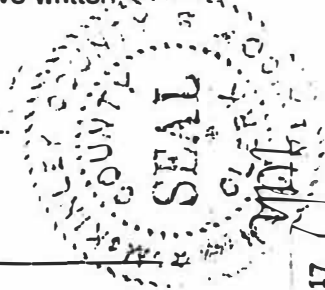
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official stamp at my office in the County of McKinley, the day and year in this certificate first above written.

WITNESS MY HAND AND OFFICIAL SEAL.

[Handwritten Signature]

Notary Public

My Commission expires: 9/20/2017



DOC# 377717
09/26/2016 10:57
DEED R: 225 00 H K Becenfi: McKinley County

Owner's Policy of Title Insurance

Issued by

FIDELITY NATIONAL TITLE INSURANCE COMPANY

SCHEDULE A

Pursuant to the New Mexico Title Insurance Law § 59A-30-4 NMSA 1978, Control and Supervision by Superintendent and Title Insurance Regulation § 13.14.18.10 NMAC, no part of any title insurance commitment, policy or endorsement form may be added to, altered, inserted in or typed upon, deleted or otherwise changed from the title insurance form promulgated by the New Mexico Superintendent of Insurance, nor issued by a person or company not licensed with regard to the business of title insurance by the New Mexico Superintendent of Insurance, nor issued by a person or company who does not own, operate or control an approved title abstract plant as defined by New Mexico law and regulations for the county wherein the property is located.

Name and Address of Title Insurance Company: **Fidelity National Title Insurance Company, P.O. Box 45023, Jacksonville, FL 32232-5023**

File No.: **15030138**

Policy No.: **2747531-210744042**

Address Reference: **Gallup, NM 87301**

Amount of Insurance: **\$250,000.00**

Premium: **\$1,572.00**

Date of Policy: **September 26, 2016 at 10:57 am**

1. Name of Insured:

United States of America In Trust for Navajo Nation, Arizona, New Mexico & Utah

2. The estate or interest in the Land that is insured by this policy is:

Fee Simple

3. Title is vested in:

United States of America in Trust for Navajo Nation, Arizona, New Mexico & Utah under and by virtue of a deed from , dated , and recorded , in the Office of the County Clerk of McKinley County, New Mexico.

4. The land referred to in this policy is described as follows:

See Exhibit "A" attached hereto and made apart hereof.

G & P INC., DBA GALLUP TITLE COMPANY

**308 S. 2nd Street
Gallup, NM 87301**

I certify that this document is a true and exact copy of the original

By: Veronica Williams
Authorized Countersignature

Signature

3/22/17

Date

(This Schedule A valid only when Schedule B is attached.)

Fidelity National Title Insurance Company

G & P Inc., dba Gallup Title Company
308 S. 2nd Street
Gallup, NM 87301

EXHIBIT "A"

<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>SUBDIVISION</u>	<u>ACRES</u>
Sec. 2	T16N	R21W	Pt. Lot 1	20.08 ± acres
			Pt. SW4NE4	3.89 ± acres
			Pt. SE4NE4	37.93 ± acres
			Pt. NE4SE4	21.68 ± acres
			Pt. NW4SE4	2.16 ± acres

N.M.P.M., McKinley County, New Mexico, containing 85.68 acres, more or less.

And further described as:

A tract of land situate partly within Lot 1; South Half Northeast Quarter (S/2NE/4); North Half Southeast Quarter (N/2SE/4) of Section 2, Township 16 North, Range 21 West, NMPM in McKinley County, State of New Mexico, being more particularly described as follows:

Commence at the Closing Corner common to Sections 1 and Section 2 T16N, R21W, New Mexico Principal Meridian, a found United States Bureau of Land Management Cadastral Survey monument brass cap dated 1962, Said Corner having NAD83 (1996) Latitude 35° 39' 14.597"N and Longitude 109° 01' 25.24"W, also being the True Point of Beginning of the herein described tract of land;

Thence on east section line measured S 00° 26' 09" W, 2,663.62 feet of said Section 2 to the east corner, a found Quarter (1/4) Section Corner common to Section 1 and 2, T 16N, R21W, NMPM United States Bureau of Land Management Cadastral Survey monument brass cap dated 1962, Said Corner having NAD83 (1996) Latitude 35°38' 48.263"N and Longitude 109° 01' 25.094"W;

Thence continuously on said east section line measured S 00° 23' 35" W, 1,096.44 feet to the southeast corner on the northerly highway right of way (r/w) line of NM Hwy 264, a found 1/2 inch rebar with PS13606 Aluminum Cap;

Thence on said northerly right of way (r/w) line, measured N 59° 46' 45" W, 2,056.91 feet to intersection of easterly right of way (r/w) line of Indian Service Route N54, set Pk-Nail;

Thence on said easterly right of way (r/w) line, measured N 29° 17' 04" E, 3,125.74 feet to intersection of the north section line of said section 2, set 5/8 inch rebar with NDOT orange plastic cap;

Thence on said north section line measured S 89° 39' 40" E, 276.07 feet to the Point of Beginning
Containing 85.68 acres, more or less.



Owner's Policy of Title Insurance

SCHEDULE B

File No.: 15030138

Policy No.: 2747531-210744042

In compliance with Subsection D of 13.14.18.10 NMAC, the Company hereby waives its right to demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association. Nothing herein prohibits the arbitration of all arbitrable matters when agreed to by both the Company and the Insured. [6-16-86, 3-1-90, 6-1-97, 6-1-98, 13.14.5.9 NMAC 14.5.9, 5-15-00; A, 8-29-03]

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

1. Rights or claims of parties in possession not shown by the public records.
2. Easements, or claims of easements, not shown by the public records.
3. Encroachments, overlaps, conflicts in boundary lines, shortages in area, or other matter which would be disclosed by an accurate survey and inspection of the premises.
4. Any lien, claim or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Community property, survivorship, or homestead rights, if any, of any spouse of the insured (or vestee in a leasehold or loan policy).
6. Water rights, claims or title to water.
7. Taxes for the year 2017, or thereafter. (See 13.14.5.12 NMAC)
8. RESERVED.
9. **Billboard lease BB-214 issued to Pittsburg & Midway Coal Mining Co. Englewood, Colorado and is described as Pt. NW4SE4 containing .01 acres. Date of expiration is 6/30/2015.**
10. **All other valid and existing rights, restrictions, reservations, covenants, conditions, rights-of-way, lease and easement affecting the granted land, including but not limited to matters on file in records of the New Mexico State Land Office.**
11. **Reservation by the State of New Mexico of all mineral of whatsoever kind in, under or upon the Land, including but not limited to, oil and natural gas, helium, carbon dioxide, coal and lignite, uranium, brine, salt, copper, iron, lead, talc, barite, gold and silver, precious and semi-precious stones and jewels, caliche, building stones, shale, clay sand, gravel, and all commercially valuable rock; all of the foregoing whether or not now known to exist or to have value, or whatever form or type, at whatever depth, in whatever natural or deposit, whether solid, semi-solid, liquid, or gaseous, whether similar or dissimilar to any of those minerals enumerated, and regardless of the method of extraction, whether by wells (including input wells), mining (including by subterranean, open-pit, or strip mines), surface or subsurface leaching or dissolution, or any other means now or hereafter known or employed.**
12. **This policy does not insure the accuracy of the acreage contained in the legal description.**
13. **Lack of record access.**
14. **Subdivision Regulations adopted by McKinley County Board of Commissioners recorded March 28, 1997 in Book 11 Comp., Pages 847-962, No. 274,140.**
15. **Any and all matters disclosed on the Title Status Report on the file with the Bureau of Indian Affairs.**

CONTINUED ON NEXT PAGE...

Owner's Policy of Title Insurance

SCHEDULE B

(Continued)

File No.: 15030138

Policy No.: 2747531-210744042

16. Any sale, lease, assignment, mortgage, grant, or conveyance of the land in any subsequent transaction shall require approval of all the Secretary of the Interior as delegated to the Bureau of Indian Affairs in compliance with the Indian Non-Intercourse Act of 1790 pursuant to Title 25 United States Code Section 177, 483 and 483a, as amended.
17. Title to all coal, lignite, oil, gas, and other minerals in, under and the may produce from the land, together with all rights, privileges and immunities relating thereto.

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.

(e) Notwithstanding Conditions and Stipulations Section 4(a-d), the Attorney General of the United States shall have the sole right to authorize or to undertake the defense of any matter which would constitute a claim under the policy,

and the Company may not represent the insured without authorization. If the Attorney General elects to defend at the Government's expense, the Company shall, upon request, cooperate and render all reasonable assistance in the prosecution or defense of the proceeding and in prosecuting any related appeals. If the Attorney General shall fail to authorize and permit the Company to defend, all liability of the Company with respect to that claim shall terminate; provided, however, that if the Attorney General shall give the Company timely notice of all proceedings and an opportunity to suggest defenses and actions as it shall recommend should be taken, and the Attorney General shall present the defenses and take the actions of which the Company shall advise the Attorney General in writing, the liability of the Company shall continue and, in any event, the Company shall cooperate and render all reasonable assistance in the prosecution or defense of the claim and any related appeals.

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. Unless prohibited by law or governmental regulation, 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) Subject to the prior written approval of the Attorney General, 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 6(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. Failure of the Attorney General to give the approval called for in 6(b)(i) shall not prejudice the rights of the insured unless the Company is prejudiced thereby, and then only to the extent of the prejudice.

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; 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) 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)(C) 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 or an accurate facsimile 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.

(c) No Subrogation to the Rights of the United States.

Notwithstanding the provisions of Conditions and Stipulations Section 13(a) and (b), whenever the Company shall have settled and paid a claim under this policy, the Company shall not be subrogated to the rights of the United States. The Attorney General may elect to pursue any additional remedies which may exist, and the Company may be consulted. If the Company agrees in writing to reimburse the United States for all costs, attorneys' fees and expenses, to the extent that funds are recovered they shall be applied first to reimbursing the Company for the amount paid to satisfy the claim, and then to the United States.

14. ARBITRATION ONLY BY AGREEMENT.

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 shall be arbitrated only when agreed to by both the Company and the Insured.

The law of the United States, or if there be no applicable federal law, 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 the Company at FIDELITY NATIONAL TITLE INSURANCE COMPANY, Claims Department, P.O. Box 45023, Jacksonville, FL 32232-5023.

