IS TITLE INSURANCE A FOREIGN CONCEPT?

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JOYCE PALOMAR

OUTLINE*

I. INTRODUCTION TO TITLE INSURANCE, TITLE ASSURANCE AND CREDIT ENHANCEMENT PRODUCTS.

A. Why should an ACREL attorney be concerned?
   1) Due diligence duty.
   2) Exposure for errors and omissions in connection with the duty to advise a client.
   3) Reliability of foreign opinion or assurance.

B. Land title assurance systems in countries other than the U.S.
   1) Registration of rights.
   2) Recordation of title evidence.

C. Developed vs. emerging nations.

D. Ownership protection.

E. “Leasing”/“Land Use Rights” protection.

F. Financing protection.

II. RISKS

A. Assurances needed in registration jurisdictions.
   1) Reliability and integrity of system.

* A more thorough discussion of this subject may be found in Joyce Palomar, Title Insurance Law, Ch. 21 Title Assurance on Property Outside the US (July 2002 Supp., WestGroup Publishing, Inc.).
2) Protection afforded.
3) Maturity of system.
4) Payments for loss or damage.
5) Payment for defense

B. Expropriation.

C. Confiscation or illegal expropriation.

D. Creeping expropriation.

E. Overriding interests.

F. Country specific risk.

G. Legal system.
   1) Enforceability.
   2) Consistency and reliability.
   3) Time to enforce.
   4) Loss or damage recoverable.

H. CALVO Doctrine.

III. COVERAGE AVAILABLE FROM TITLE ASSURANCE & CREDIT ENHANCEMENT PRODUCTS

A. Commercial vs. residential.
   1) Amount of premium.
   2) Deposits for search/order.
B. U.S. title insurers.

1) International owners policy.
2) International loan policy.
3) International leasehold policy.
4) Country specific policies.
6) Who offers?
   a) First American Title Insurance Company
   b) Lawyers Title Insurance Company
   c) Stewart Title Insurance Company
   d) Chicago Title/Fidelity National Title Insurance Company
7) Where Offered?
8) Legal title vs. marketable title.
9) Defects covered and excluded.
10) Deductibles.
11) Defense costs.
12) Need for coverage for extraordinary risks.

C. Foreign title insurers.

1) Legal indemnity insurance/defective title insurance.
   a) Evidence of title.
   b) Defective titles.
   c) Lack of planning consent.
   d) Lack of legal access.
   e) Leasehold risks.
   f) Restrictive covenants.
   g) Missing beneficiaries.
   h) Deeds of gift avoided under the Insolvency Act.
   i) Other title defects.

2) London & European Title Insurance Services Ltd. Policies.
3) Lawyers Professional Indemnity Company (Canada).

D. Overseas Private Investment Corporation (OPIC).

E. World Bank Guarantee.

F. Multilateral Investment Guarantee Agency (MIGA).

G. Mortgage impairment insurance.

H. Other products.
I. Arbitration and selection of applicable law.

IV. APPENDIX – SAMPLE POLICIES ATTACHED.

A. Defective Title Indemnity Policy.

B. Flying Freehold Indemnity Policy.

C. Access Services and Restrictive Covenant Indemnity Policy.

D. Lenders Title Insurance Contract.

E. Owners Title Insurance Contract.
DEFECTIVE TITLE INDEMNITY POLICY

This Policy and Schedule shall be read together and any word or expression to which a specific meaning has been attached in either shall bear such meaning wherever it may appear.

Whereas
By a proposal and particulars in writing (which it is agreed shall be the basis of this contract and shall be held to be incorporated herein) the Insured has applied to the Underwriters for the indemnity hereinafter expressed and has paid or agreed to pay the Single Premium as consideration for such indemnity

The Insured is or is about to become the owner lessee or mortgagee of the Property the title to which may be considered defective by reason of the Defect

IT IS HEREBY AGREED THAT subject to the terms of this policy the Underwriters will in respect of claims made during the period of insurance indemnify the Insured against all loss damages costs and expenses which the Insured may incur if the Insured’s claim to ownership of the title to and enjoyment of the Property or any part thereof (subject save as may be recorded elsewhere in the Policy to the rights covenants liabilities or easements to which the Property is or shall hereafter become subject) is prejudiced challenged or defeated by reason of the Defect stated in the Schedule.

In dealing with any claim the Underwriters will at their discretion be entitled to:

take or defend in any Court or Tribunal in the name of the Insured any proceedings arising out of such claim
exercise in the name of the Insured any rights or remedies available to the Insured in such proceedings including the right to abandon or submit to judgement
compromise settle or compound any such claim
deal with such claim in such manner as they think fit

PROVIDED however that before exercising their power to abandon proceedings or submit to judgement in proceedings or compromise settle or compound any claim the Underwriters shall inform the Insured of their intentions and give the Insured reasonable opportunity to comment thereon

Regardless of the number of claims that may be made against the Insured during the Period of Insurance the total amount payable by the Underwriters under this policy shall not exceed in the aggregate the Limit of Indemnity

The Insured shall at all times comply with the requirements of the Conditions hereinafter set out.
CONDITIONS

Upon becoming aware of any occurrence affecting the risk insured against or likely to give rise to a claim under this policy the Insured shall not admit any liability nor take any steps to compromise or settle any claim without the consent in writing of the Underwriters but shall with all due diligence give to the Underwriters particulars in writing of such occurrence and shall thereupon give all due and proper information and assistance to the Underwriters or their solicitors agents or surveyors in or about the conduct of any proceedings which the Underwriters may think fit to take at their own expense either in the name of the Insured or in the name of the Underwriters (whether before or after settlement of any claim) including any steps the Underwriters may wish to take for the purpose of enforcing any rights seeking any remedies or obtaining any relief indemnity or contribution from any other party or parties to which the Underwriters may be or become entitled by right of subrogation or otherwise upon payment or satisfaction of any claim under this policy.

If any step action or proceedings by any third party likely to give rise to a claim under this policy shall be induced either wholly or partly by or through any act or omission of the Insured (save as may already have occurred and be recorded in this policy or schedule) this policy shall be void.

If at the time of any claim made under this policy there be any other insurance or insurances subsisting (whether effected by the Insured or by any other person) under which the Insured may be entitled to make a claim wholly or partly in respect of the same risk or interest covered by this policy the Underwriters shall be liable to pay or contribute in respect of such claim ratably with such other insurance or insurances.

If any difference shall arise as to the amount to be paid under this policy (liability being otherwise admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with the statutory provisions in that behalf for the time being in force. Where any difference is by this condition to be referred to arbitration the making of an award shall be a condition precedent to any right of action against the Underwriters.

Unless it is specifically agreed between the Underwriters and the Insured to the contrary this insurance shall be governed by English law.

The existence of this indemnity or any information relating thereto shall not be disclosed to any third party other than bona fide purchasers their mortgagees and lessees and their respective professional advisers without the prior written consent of the Underwriters.

MORTGAGEES AND SUCCESSORS IN TITLE CLAUSE

Notwithstanding anything contained herein to the contrary the interest of any mortgagee or chargee or successor in title to the original Insured in this Policy shall not be prejudiced by any act or default of any party (not being such mortgagee or chargee or successor) which might otherwise invalidate or reduce the indemnity provided by this Policy.
DEFECTIVE TITLE INDEMNITY SCHEDULE

Policy Number: Single Premium:
Insurance Premium Tax:
Total Taxed Premium:

The Underwriters: LIBERTY LEGAL INDEMNITIES
Underwritten by Syndicate 190 at Lloyd’s

The Insured: and the Insured's successors in title (including mortgagees and lessees) to the Property or any part or parts thereof all of whom shall be bound by the terms conditions and provisions of this policy.

The Property:

The Defect:

Limit of Indemnity:

\[
\begin{align*}
\text{Date of Commencement:} & \\
\text{Expiry Date:} & \text{The period commencing with the Date of Commencement and continuing in perpetuity.}
\end{align*}
\]

Date Policy Signed:

Signed for and on behalf of the Underwriters

Issued by: -
Countrywide Legal Indemnities Limited
For and on behalf of
Liberty Legal Indemnities
St Crispins
Duke Street
Norwich
Norfolk NR3 1PD
ACCESS SERVICES AND RESTRICTIVE COVENANT INDEMNITY POLICY

This Policy and Schedule shall be read together and any word or expression to which a specific meaning has been attached shall bear such meaning wherever it may appear.

WHEREAS

By a proposal and particulars in writing (which it is agreed shall form the basis of this contract and shall be held to be incorporated herein) the Insured has applied to the Underwriters for the indemnity hereinafter expressed and has paid or agreed to pay the Single Premium as consideration for such indemnity.

The Insured is or is about to become the owner lessee or mortgagee of the Property.

The Insured’s title to the Property is considered to be defective by reason of the Defect.

It is apprehended that the Development may be in breach of the Restrictive Covenants.

IT IS HEREBY AGREED THAT subject to the terms of this Policy the Underwriters will:

A. in the event of any person(s) or corporation establishing ownership of and preventing or attempting to prevent the Insured’s user of the Access serving the Property and/or establishing ownership of the land under over or through which the Services pass and preventing or attempting to prevent the Insured’s user of the Services during the period of insurance the Underwriters will indemnify the Insured against:
   i) damages including costs and expenses awarded against the Insured by a court of law;
   ii) costs and expenses incurred by the Insured with the agreement of the Underwriters in taking or defending any action at law or otherwise;
   iii) loss in value of the Property being the difference between the value of the Property immediately prior to and immediately following the Insured’s user being prevented;
   iv) the cost of obtaining an alternative access way and/or route for services;
   v) the cost of obtaining a legal grant of right of way and/or easement for services.

B. in the event of any person(s) or corporation claiming to be entitled to enforce the Restrictive Covenants during the period of insurance indemnify the Insured against:
   the expense of and incidental to defending or prosecuting any legal proceedings in any court or tribunal of competent jurisdiction arising out of any claim whether such proceedings are brought by the person making the claim or in the name of the Insured;
   any sums agreed by the Underwriters with the claimant as payable by the Insured for the purpose of settling any proceedings or compromising settling or compounding any such claim;
   any damages and costs awarded against the Insured in any such proceedings by any such court and any compensation and costs which any such tribunal may award as a condition of the modification of the Restrictive Covenants;
   the expense of complying with any injunction which may be awarded against the Insured or any undertaking given by the Underwriters in the name of the Insured in any such proceedings;
   the difference between the market value of the Property on the assumption that the Covenants are unenforceable and the market value subject to the Covenants to the extent that they are held to be enforceable by any Court or Tribunal such values to be calculated by reference to prices current at the date of any Order by such Court or Tribunal;
   any capital sum expended or contracted for on works for the purpose of the Development (including any architect’s surveyor’s and legal fees necessarily incurred) up to the date of any Order by any Court or Tribunal to the extent that such expenditure is rendered abortive by any such Order.

IN DEALING with any claim the Underwriters will at their discretion be entitled to:
take or defend in any Court or Tribunal in the name of the Insured any proceedings arising out of such claim
eexercise in the name of the Insured any rights or remedies available to the Insured in such proceedings including the right to
abandon or submit to judgement
compromise settle or compound any such claim
deal with such claim in such manner as they think fit

PROVIDED however that before exercising their power to abandon proceedings or submit to judgement in proceedings or
compromise settle or compound any claim the Underwriters shall inform the Insured of their intentions and give the Insured
reasonable opportunity to comment thereon

Regardless of the number of claims that may be made against the Insured during the Period of Insurance the total amount payable
by the Underwriters under this policy shall not exceed in the aggregate the Limit of Indemnity

The Insured shall at all times comply with the requirements of the Conditions hereinafter set out.
CONDITIONS

Upon becoming aware of any occurrence affecting the risk insured against or likely to give rise to a claim under this policy the Insured shall not admit any liability nor take any steps to compromise or settle any claim without the consent in writing of the Underwriters but shall with all due diligence give to the Underwriters particulars in writing of such occurrence and shall thereupon give all due and proper information and assistance to the Underwriters or their solicitors agents or surveyors in or about the conduct of any proceedings which the Underwriters may think fit to take at their own expense either in the name of the Insured or in the name of the Underwriters (whether before or after settlement of any claim) including any steps the Underwriters may wish to take for the purpose of enforcing any rights seeking any remedies or obtaining any relief indemnity or contribution from any other party or parties to which the Underwriters may be or become entitled by right of subrogation or otherwise upon payment or satisfaction of any claim under this policy.

If any step action or proceedings by any third party likely to give rise to a claim under this policy shall be induced either wholly or partly by or through any act or omission of the Insured (save as may already have occurred and be recorded in this policy or schedule) this policy shall be void.

If at the time of any claim made under this policy there be any other insurance or insurances subsisting (whether effected by the Insured or by any other person) under which the Insured may be entitled to make a claim wholly or partly in respect of the same risk or interest covered by this policy the Underwriters shall be liable to pay or contribute in respect of such claim rateably with such other insurance or insurances.

If any difference shall arise as to the amount to be paid under this policy (liability being otherwise admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with the statutory provisions in that behalf for the time being in force. Where any difference is by this condition to be referred to arbitration the making of an award shall be a condition precedent to any right of action against the Underwriters.

Unless it is specifically agreed between the Underwriters and the Insured to the contrary this insurance shall be governed by English law.

The existence of this indemnity or any information relating thereto shall not be disclosed to any third party other than bona fide purchasers their mortgagees and lessees and their respective professional advisers without the prior written consent of the Underwriters.

No communication of any kind shall be made by or on behalf of the Insured with any person(s) or corporation who may have a prior right title or interest in the access way (save as may already have occurred and be recorded in the proposal and particulars in writing).

MORTGAGEES AND SUCCESSORS IN TITLE CLAUSE

Notwithstanding anything contained herein to the contrary the interest of any mortgagee or chargee or successor in title to the original Insured in this Policy shall not be prejudiced by any act or default of any party (not being such mortgagee or chargee or successor) which might otherwise invalidate or reduce the indemnity provided by this Policy.
ACCESS SERVICES AND RESTRICTIVE COVENANT INDEMNITY SCHEDULE

Policy Number:   Single Premium:

Insurance Premium Tax:

Total Taxed Premium:

The Underwriters: LIBERTY LEGAL INDEMNITIES
Underwritten by Syndicate 190 at Lloyd’s

The Insured: and the Insured’s successors in title (including mortgagees and lessees) to the Property or
any part or parts thereof all of whom shall be bound by the terms conditions and provisions
of this policy.

The Property:

The Defect:

The Restrictive Covenants:

The Development:

Limit of Indemnity:

\[
\begin{align*}
\text{Date of Commencement:} & \quad \text{Expiry Date:} \\
& \quad \text{The period commencing with the Date of Commencement}
& \quad \text{and continuing in perpetuity.}
\end{align*}
\]

WARRANTY
Warranted that the Property continues to be used (state existing use of Property).

Date Policy Signed:

________________________________________

Signed for and on behalf
of the Underwriters

Issued by: -
Countrywide Legal Indemnities Limited
For and on behalf of
Liberty Legal Indemnities
St Crispins
Duke Street
Norwich
Norfolk  NR3 1PD
FLYING FREEHOLD INDEMNITY POLICY

This Policy and Schedule shall be read together and any word or expression to which a specific meaning has been attached in either shall bear such meaning wherever it may appear.

WHEREAS

1. By a proposal and particulars in writing (which it is agreed shall be the basis of this contract and shall be held to be incorporated herein) the Insured has applied to the Underwriters for the indemnity hereinafter expressed and has paid or agreed to pay the Single Premium as consideration for such indemnity.

2. The Insured is or is about to become the owner of the Property the title to which may be considered defective by reason of the Defect.

IT IS HEREBY AGREED that in the event the insured is unable to enforce any rights of support protection repair or access for the benefit of the Property against the adjoining dwellings the Underwriters will subject to the terms and conditions of this Policy indemnify the Insured up to the Limit of Indemnity against the difference at the time when the Insured requires but is unable to enforce such rights of support protection repair or access between the value of the property on the open market with the benefit of such rights and the value of the property without the benefit of such rights such values to be determined by a surveyor appointed jointly by the parties or in default of such appointment by the President for the time being of the Royal Institution of Chartered Surveyors.

CONDITIONS

1. Upon becoming aware of any occurrence affecting the risk insured against or likely to give rise to a claim under this policy the Insured shall not admit any liability nor take any steps to compromise or settle any claim without the consent in writing of the Underwriters but shall with all due diligence give to the Underwriters particulars in writing of such occurrence and shall thereupon give all due and proper information and assistance to the Underwriters or their solicitors agents or surveyors in or about the conduct of any proceedings which the Underwriters may think fit at their own expense either in the name of the Insured or in the name of the Underwriters (whether before or after settlement of any claim) including any steps the Underwriters may wish to take for the purpose of enforcing any rights seeking any remedies or of obtaining any relief indemnity or contribution from any other party or parties to which he Underwriters may be or become entitled by right of subrogation or otherwise upon payment or satisfaction of any claim under this policy.

2. The Insured shall not be entitled to abandon the Property to the Underwriters.

3. If at the time of any claim made under this policy there be any other insurance or insurances subsisting whether effected by the Insured or by any other person under which the Insured may be entitled to make a claim wholly or partly in respect of the same risk or interest covered by this policy the Underwriters shall be liable to pay or contribute in respect of such claim ratably with such other insurance or insurances.

4. If any difference shall arise as to the amount to be paid under this policy (liability otherwise being admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with the statutory provisions in that behalf for the time being in force. Where any difference is by this condition to be referred to arbitration the making of an award shall be a condition precedent to any right of action against the Underwriters.

5. Unless it is specifically agreed between the Underwriters and the Insured to the contrary this insurance shall be governed by English Law.
6. The existence of this indemnity or any information relating thereto shall not be disclosed to any third party other than bona fide purchasers their mortgagees and lessees and their respective professional advisers without the prior written consent of the Underwriters.

MORTGAGEES AND SUCCESSORS IN TITLE CLAUSE

Notwithstanding anything contained herein to the contrary the interest of any mortgagee or chargee or successor in title to the original Insured in this Policy shall not be prejudiced by any act or default of any party (not being such mortgagee or chargee or successor) which might otherwise invalidate or reduce the indemnity provided by this Policy.
FLYING FREEHOLD INDEMNITY SCHEDULE

Policy Number:   Single Premium:
Insurance Premium Tax:
Total Taxed Premium:

The Underwriters: LIBERTY LEGAL INDEMNITIES
Underwritten by Syndicate 190 at Lloyd’s

The Insured: and the Insured’s successors in title (including mortgagees and lessees) to the Property or any part or parts thereof all of whom shall be bound by the terms conditions and provisions of this policy.

The Property:

The Defect: The Insured's title to the Property is defective in that part of the Property is a flying freehold and there are no adequate provisions in the title deeds to the Property in respect of the necessary rights of support protection and entry for repair or an enforceable scheme of covenants to enforce subsequent purchasers of the Property and the Adjoining Dwellings to enter into support repair and maintenance covenants of identical form or to regulate the Insured's liability in respect of the maintenance and repair of any structure supporting the said flying freehold.

Adjoining Dwelling:

Limit of Indemnity:

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\begin{align*}
\text{Date of Commencement:} \\
\text{Expiry Date:} & \quad \text{The period commencing with the Date of Commencement and continuing in perpetuity.}
\end{align*}
\]

EXCLUSIONS

This Policy does not cover any loss resulting directly from any structural defect existing in the Property prior to or at the Date of Commencement.

This Policy does not cover any loss resulting directly from any structural defect identified in the Property or Adjoining Dwellings by any structural survey, Home Buyers report or mortgage valuation report carried out on behalf of or for the benefit of the Insured or the Insured's mortgagees prior to the Date of Commencement or in respect of persons claiming indemnity hereunder as successors in title to the original Insured prior to their purchase of the Property.

Date Policy Signed:

Signed for and on behalf of the Underwriters

Issued by: -
Countrywide Legal Indemnities Limited
For and on behalf of
Liberty Legal Indemnities
St Crispins
Duke Street
Norwich
Norfolk NR3 1PD
Title Insurance

Underwritten by Participating Syndicates at Lloyd’s
Exclusively managed by
London & European Title Insurance Services Limited

This is to Certify that in accordance with the authorisation granted under the Contract (the number of which is specified in the Schedule) to the undersigned by certain Underwriters at Lloyd’s, whose definitive numbers and the proportions underwritten by them, which will be supplied on application, can be ascertained by reference to the said Contract which bears the Seal of Lloyd’s Policy Signing Office and in consideration of the payment of the premium specified herein, the said Underwriters are hereby bound, severally and not jointly, their Executors and Administrators, to insure in accordance with the terms and conditions contained herein or endorsed hereon.

Notwithstanding anything to the contrary contained herein this Certificate does not cover loss, damage or liability directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

If the Assured shall make any claim knowing the same to be false or fraudulent, as regards amount or otherwise, this Certificate shall become void and all claim hereunder shall be forfeited.

In Witness whereof this Certificate has been signed at the place stated and on the date specified in the Schedule by:
Owner's Title Insurance Contract
(Residential)
EWOO3
Part I

Subject to the Exclusions from Coverage (Part II) contained herein and the Terms and Conditions hereof (Part III) the Underwriters hereby insure the Insured as of the Contract Date and Time stated in Schedule A against Actual Loss not exceeding the Limit of Indemnity stated in Schedule A together with such costs legal fees and expenses which the Underwriters may become obliged to pay in respect of such loss sustained or incurred by reason of the matters set out below.

1. The title to the Property being vested otherwise than in the Insured

2. Any defect in the Title to the Property or any defect or invalidity or claim in respect of any deed document or other instrument by virtue of which the Title is purported to be vested as stated in Schedule A

3. The Title to the Property being other than good and marketable by reason of lost and/or missing deed documents or other instruments by virtue of which the Title is purportedly vested as stated in Schedule A the necessity of which deeds documents or other instruments is requisite for the purposes of effecting a sale for value of the Property and/or obtaining registration at HM Land Registry of such Title and/or affording a good and valuable security for the Mortgage

4. The lack of capacity or other disability of any predecessor in title to the Mortgagor from any cause including but not limited to personal insolvency the dissolution of a corporate predecessor in title by operation of law or a failure to comply with the provisions of the Matrimonial Homes Act 1967

5. Any restrictive covenant restricting or otherwise adversely affecting the use of the Property as a single family dwelling

6. The lack of at least one means of unrestricted pedestrian access to and egress from the Property and where there is a garage situated upon the Property the lack of a means of suitable vehicular access to and egress from such garage

7. Any inaccuracy or omission in the replies to the standard forms of local authority land charges register search and enquiries of a local authority (limited in the case of enquiries of local authorities to replies to Part I enquiries) or changes therein prior to the Contract Date

8. The lack of or defect in any requisite planning permission Building Regulation London Building Acts or bye law approvals in respect of the use of the Property as a single family dwelling

9. Where the title to the Property is registered at HM Land Registry in addition to the other matters in respect of which this Contract of Insurance affords an indemnity any overriding interests as the same are defined in section 70(1) of the Land Registration Act 1925

10. Where the tenure of the Property is leasehold any of the foregoing matters specified in Part I of this Contract of Insurance which have a direct impact on the Title; inconsistency of the Title with any superior interest from which the Title is derived; the non performance, including the failure to pay the reserved rent, of any obligation imposed by the superior interest from which the Title is derived and which obligation or duty had crystallised at the Contract Date and Time but not otherwise

If you have any queries please contact
Our helpline on 0171 945 7850
Keep this policy in a safe place with the deed to your house
It is a valuable document

London & European Title Insurance Services Limited
Aldgate House
EXCLUSIONS FROM COVERAGE

Part II

This Contract of Insurance shall afford no indemnity in respect of the following matters and the Underwriters will make no payment in respect of any loss damage costs fees expenses or other similar by reason of:

1. Matters that would have been disclosed by a physical inspection of the Property
2. Changes in the use of the Property subsequent to the Contract Date
3. Defects encumbrances adverse claims or other such matters
   3.1 adverse to the interests of the Insured which were created agreed assumed or permitted by the Insured
   3.2 not known to the Underwriters and not disclosed by any document of title but which were known to the Insured at the Contract Date and which matters were not disclosed in writing to the Underwriters prior to the Contract Date
   3.3 which result in no loss to the Insured
   3.4 created suffered agreed assumed or attaching to the Property or otherwise coming into existence after the Contract Date except where the same are specifically covered by this Contract of Insurance by means of endorsement
   3.5 which result in loss or damage and which loss or damage would not have been sustained had the title to or interest or estate in the Property been acquired for value in good faith by the Insured
4. The right and title of the Crown or any other statutory body in and to precious metals petroleum coal and such other substances in or under the Property as shall from time to time be reserved by and to the Crown and the related rights to use the Property for such purposes
5. Any loss damage fees costs or other expenses the Insured may suffer in respect of seepage pollution contamination or other deleterious matter in or over or to the Property
6. Such other matters as may be specified in Section 1 of Schedule B of Part IV
7. This Contract does not cover
   (a) loss or destruction of or damage to any property whatsoever or any loss or expenses whatsoever resulting or arising therefrom or any consequential loss
   (b) any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from
      (i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
      (ii) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof or the combustion of nuclear fuel
   (iii) electromagnetic fields
Where in any action suit or other proceedings the Underwriters allege that by virtue of the provisions of these exclusions any loss damage costs fees or other expenses are not covered by this Contract of Insurance the burden of proving that one or more of these exclusions does not apply shall lie with the Insured.
Article I. Definitions

1. In this Contract of Insurance, including the Schedules

1.1 the following words phrases and expressions shall have the following meanings unless the context in which such words phrases and expressions are used shall otherwise require

“Actual Loss” shall mean the lesser of either:

(i) the cost to Underwriters of rectifying the Title defect in respect of which the claim is made; or

(ii) the Limit of Indemnity set out in Schedule A;

provided always that under no circumstances shall the amount payable by Underwriters under sub-clause (ii) above exceed the open market value of the Property as at the Contract Date

“Contract Date” shall mean the date and time so stated in the Certificate of Title Insurance appended hereto

“the Insured” shall mean the person so stated in Schedule A of the Certificate of title Insurance

“Lessor” shall mean any reversioner to the Insured’s interest in the Property or any other person having vested in them a superior title to that of the Insured

“Limit of Indemnity” shall mean the sum stated in respect of the Property in respect of which this Policy affords an indemnity as the same is more particularly specified in the Schedule And the “Mortgagee” shall mean that person so described in Schedule A

“the Property” shall mean all that piece or parcel of land with the buildings messuages and other structures situated thereupon more particularly specified in Schedule A subject to and with the benefit of the matters referred to therein

“Solicitor” shall mean for the purposes of this Contract of Insurance any person permitted by law to describe themselves as a solicitor or any licensed conveyancer or any partner or employee of the firm of solicitors or licensed conveyancers acting on behalf of the Insured

“Surveyor” shall mean any valuer or surveyor acting on behalf of the Insured together with any partner or employee thereof

“Title” shall mean the aggregate of the deeds conveyances transfers and other documents by which the rights and interests in over or to the Property shall be vested in any person natural or otherwise

1.2 except where the context otherwise requires words denoting the singular shall include the plural and vice versa; words denoting any gender shall include the other genders and shall include corporations and vice versa

1.3 clause headings are for ease of reference only and do not affect the construction of this Contract of Insurance

1.4 All references to a statutory provision shall be construed as including references to:

1.4.1 any statutory consolidation or re-enactment (whether before or after the Contract Date) for the time being in force

1.4.2 any statutory orders or instruments made pursuant to any of the matters referred to in 1.5.1 above
1.4.3 any statutory provisions of which it is a consolidation or re-enactment

2. Notices

2.1 All communications between the Underwriters and the Insured and/or their respective solicitors relating to this Contract of Insurance shall be delivered by hand or sent by first class pre-paid post or by facsimile transmission to the address of the addressee set out herein or to such other address as the addressee may from time to time have notified in writing to the other party for the purpose of this clause

2.2 Communications in writing shall be deemed to have been received:

2.2.1 if sent by first class pre-paid post: two business days after posting exclusive of the day of posting

2.2.2 if delivered by hand: on the day of delivery

2.2.3 if sent by facsimile transmission: at the time of transmission

2.3 In proving service:

2.3.1 delivery by hand: it shall be necessary only to produce a receipt for the communication signed by or for and on behalf of the addressee

2.3.2 by post: it shall be necessary only to prove that the communication was contained in an envelope which was duly addressed and posted in accordance with this clause

2.3.3 by facsimile transmission: it shall only be necessary to prove that no notice of failure of receipt had been received by the party making the transmission and by proof of the original copy of the transmission in the same manner as for proof of postage

3. Entire Agreement and Schedules

3.1 This Contract of Insurance and the Schedules shall constitute the entire agreement and understanding between the parties with respect to all matters referred to herein

3.2 All Schedules form part of this Contract of Insurance

4. Applicable Law

This Contract of Insurance shall be governed by and construed in accordance with the laws of England and Wales and the parties hereto irrevocably submit to the exclusive jurisdiction of the High Court of Justice of England and Wales in respect of any dispute or difference or matter arising out of or connected with this Contract of Insurance save where specific provision is made to the contrary herein

5. Dispute Resolution

In the event of any dispute or difference arising as to any sum to be paid under this Contract of Insurance (liability otherwise being admitted) such dispute or difference shall be referred to an Arbitrator to be appointed by the President for the time being of the Chartered Institute of Arbitrators in accordance with the statutory provisions in respect thereof from time to time in force. Where any dispute or difference between the parties is by this clause to be referred to arbitration the making of an award shall be a condition precedent to any right of action against the Underwriters

6. Limits of Cover
6.1 The indemnity afforded by this Contract of Insurance shall not exceed the amount of the Actual Loss incurred by the Insured, provided that such Loss arises as a result of one or more of the matters set out in Part I hereof.

6.2 The Underwriters shall incur no liability to make any payment to the Insured in respect of any defect or alleged claim if the Underwriters secure the removal of or remedy the defect within six months after having received the proof of loss referred to in clause 9.1.

6.3 Any payment made to the Insured as a result of the indemnity afforded by this Contract of Insurance shall reduce the Limit of Indemnity by a like sum.

6.4 Where the Insured does or fails to do any act which may adversely affect the Insured’s right to recover any sum from any third party in respect of any indemnity afforded by this Contract of Insurance the Underwriters may deduct from any sum otherwise due to the Insured the amount by which the value of such rights is reduced or the Underwriters may recover such sum from the Insured if the Underwriters shall have previous made payment in respect of such claim.

6.5 For the purposes of determining the Actual Loss where the Property is subject to a mortgage the Underwriters shall incur no liability to the Insured greater than the difference between the principal sum outstanding at the Contract Date and the Limit of Indemnity (exclusive of fixtures and fittings) provided that the Property shall have been purchased by the Insured within five years of the Contract Date. Where more than five years shall have elapsed since the purchase of the Property or the Property shall have vested in the Insured other than by purchase at arms length then the value to be ascribed to the Property shall be such sum as the Underwriter’s Surveyor shall in his absolute discretion determine.

6.6 The indemnity afforded by this Contract of Insurance shall be reduced by the amount of any claims paid by the Underwriters under any Contract of Insurance affording like cover in respect of any mortgage secured upon the Property specified in Schedule B.

6.7 Any payment made or to be made to the Insured as a result of the indemnity afforded by this Contract of Insurance shall carry interest at the lesser of either the like rate as that from time to time in force in respect of judgments issuing from the High Court of Justice of England and Wales or the lowest rate from time to time accruing in respect of the then outstanding balance of the loan secured by the Mortgage. Such interest shall accrue to the Insured from 30 days after the Insured has provided Underwriters with the fully detailed and particularised proof of loss required pursuant to clause 9.1 hereof, until the date upon which payment is made to the Insured.

7. Commencement and Duration of Policy

7.1 This Contract of Insurance shall commence on the date and at the time specified in Schedule A.

7.2 This Contract of Insurance shall continue in full force and effect until such time as the first of the following events may occur whereupon the indemnity afforded by this Contract of Insurance shall cease and terminate forthwith namely:

7.2.1 Where this Contract of Insurance is issued contemporaneously with a Contract of Insurance issued by the Underwriters in similar terms in favour of the Mortgagee of the Insured when the Insured shall discharge his indebtedness to such Mortgagee under the terms of the Mortgage secured upon the Property.

7.2.2 Upon the payment by the Underwriters to the Insured of the Limit of Indemnity.

7.2.3 Forthwith upon the transfer conveyance dealing with or other devolution of any interest of the Insured in the Property.

8. Indemnity

8.1 The Underwriters will subject to the terms conditions warranties and exclusions contained or referred to in this Contract of Insurance in respect of claims notified to the Underwriters during the term of this Contract of
Insurance indemnify the Insured against such loss and damage as is more particularly defined in Part I of this Contract of Insurance and for which the Limit of Indemnity is stated in and specified in Schedule A

8.2 The Underwriters will further pay (in addition to the Limit of Indemnity) any costs of expenses incurred in the defence or settlement of any claim which fails to be handled by virtue of the indemnity afforded by this Contract of Insurance provided always that the Underwriters shall incur no such liability in respect of any costs or expenses incurred prior to the giving of notice pursuant to clause 9.1 hereof

8.3 In the event of any claim being made under the terms hereof all reasonable means and steps to secure recovery shall be pursued by the Insured (including but not limited to recovery under any other policy of insurance arranged by the Insured and/or the Mortgagee) and fully exhausted before the operation of the indemnity afforded by this Contract of Insurance but without prejudice to the generality of the foregoing neither the Insured nor the Mortgagee shall be obliged to prosecute or defend any judicial or administrative proceedings relating to the Property

8.4 The liability of the Underwriters (exclusive of costs and expenses and interest payable under clause 8.2 and interest payable under clause 6.7) shall not exceed the Limit of Indemnity specified in the Schedule A

8.5 Subject to the terms and conditions of this Contract of Insurance where the Underwriters shall become liable to make any payment to or on behalf of the Insured

(i) in respect of any one or more of the matters referred to in Part I hereof such payment shall be made by the Underwriters within 30 days of the giving of notice in writing by the Underwriters to the Insured of acceptance of liability and the final determination of the Actual Loss, and

(ii) in respect of any costs and/or expenses incurred by the Insured pursuant to clause 8.2 above where the Underwriters have accepted a claim made under Part I hereof within 30 days of the Insured giving notice in writing to the Underwriters of the amount of such costs and/or expenses subject to the Underwriters having vested in them all the Insured’s rights and remedies relating thereto provided that the Insured shall not make such claims in respect of costs and/or expenses at intervals of less than three months

9. Notice of Claim

9.1 The insured shall give notice in writing to the Underwriters within fourteen days after being made aware of any matter upon which a claim is based. Within ninety days of the giving of the notice referred to above the Insured shall provide the Underwriters with a fully detailed and particularised proof of loss in such manner as shall reasonably be required. It is a condition precedent to the liability of the Underwriters under this Contract of Insurance that the Insured shall both give notice and provide proof of loss within the periods of time specified above and that the Insured shall also as soon as is practicable provide the Underwriters with copies of all correspondence notices writs summonses and/or other documents of whatsoever nature bearing upon the claim or loss

9.2 The Insured shall make no admission promise payment indemnity or in any other manner compromise or settle any claim loss or damage in respect of which this Contract of Insurance does or may afford an indemnity nor shall any costs or expenses be incurred by or on behalf of the Insured in respect of any matter in respect of which this Contract of Insurance does or may afford an indemnity without the prior written consent of the Underwriters

9.3 The Underwriters shall be entitled to take over and conduct in the name of the Insured the defence and/or settlement of any claim and/or to prosecute in the name of the Insured for their own benefit any claim and the Underwriters shall have full discretion in the conduct of all and any proceedings and in the settlement of any claim in respect of which this Contract of Insurance affords an indemnity. At all times the Insured shall give such information and assistance as the Underwriters may reasonably require

9.4 The Underwriters may at any time in respect of claims made against the Insured pay to the Insured the Limit of Indemnity (after the deduction of any sum previously paid under this Contract of Insurance in respect of the same Property) or such lesser sum for which such claim may be settled whereupon the Underwriters shall relinquish control of such claim and be under no further liability in respect thereof save to the extent of such costs fees or expenses incurred prior to payment by Underwriters to the Insured of the Limit of Indemnity
The Insured shall at all reasonable times subject to the giving of reasonable notice by the Underwriters afford access to the Underwriter’s duly authorised representatives for the purposes of investigating the circumstances of any loss or damage sustained or claimed by the Insured in respect of which this Contract of Insurance does or may afford an indemnity. The Insured shall at its own expense provide the Underwriters such assistance as they may reasonably require for the purposes of investigating said circumstances including but not limited to the furnishing of all books of account, computer records, receipts and other records pertaining to the subject matter of the claim in whatsoever manner the same may be stored and all communications passing between the Insured and their solicitors, surveyors, other professional advisers, intermediaries (to include financial advisers) and third parties which it may have in its possession. The Insured shall at its own expense provide the Underwriters with copies of such of the above as they may reasonably require and the Insured shall otherwise provide all reasonable assistance to the Underwriters in the investigation of any loss in respect of which this Contract of Insurance does or may afford an indemnity and the Underwriters shall not be precluded from using anything disclosed by the Insured for the purposes of defending or pursuing any claim or recovery by or against the Insured or by or against any third party.

Any recovery which either the Underwriters or the Insured shall make subsequent to the making of any payment to the Insured in respect of any loss in respect of which this Contract of Insurance affords an indemnity shall inure firstly to the Insured to the extent only of any payment made or loss incurred by the Insured in excess of the Limit of Indemnity in respect of that loss and any surplus thereafter to the benefit of the Underwriters.

The Insured hereby agrees and acknowledges that any sums he shall hold for the benefit of the Underwriters he shall

9.7.1 hold in trust for the Underwriters and
9.7.2 that he will pay such sums received to the Underwriters promptly upon the receipt thereof by him and/or any other person on his behalf.

When the Underwriters shall have made of become liable to make payment to the Insured in respect of any matter by virtue of which this Contract of Insurance affords an indemnity they shall have vested in them all the rights of the Insured against any person or property relating to the subject matter of that indemnity and the Insured shall at the request of the Underwriters transfer all such rights to the Underwriters.

The due observance of the terms conditions, warranties, time limits and provisions of this Contract of Insurance insofar as they relate to any act required to be done or required not to be done or otherwise requiring compliance with the terms hereof shall be and are hereby expressly agreed to be conditions precedent to the assuming of any liability by the Underwriters to make any payment under the terms of this Contract of Insurance.

The Insured shall take all reasonable and prudent steps to prevent and/or mitigate any loss, damage, costs or expenses in respect of which this Contract of Insurance does or may afford an indemnity.

Where any court or tribunal of competent jurisdiction shall determine that any provision of this Contract of Insurance is invalid or unenforceable then this Contract of Insurance shall be deemed to exclude such provision and the remaining provisions hereof shall continue in full force and effect.

This Contract of Insurance shall be personal to the Insured and shall not be capable of assignment, transmission or other devolution by the Insured provided always that the Underwriters may assign transfer or otherwise deal in any manner they may so determine with their interest in this Contract of Insurance.

EU DISCLOSURE CLAUSE (UK)

The parties are free to choose the law applicable to this Insurance Contract. Unless specifically agreed to the contrary this insurance shall be subject to English law.

Any enquiry or complaints should be addressed in the first instance to your broker.
If you are not satisfied with the way a complaint has been dealt with you may ask the Complaints and Advisory Department at Lloyd’s to review your case without prejudice to your rights in law.

Complaints and Advisory Department
Lloyd’s
One Lime Street
LONDON EC3M 7AH
Telephone: 0171 623 7100
Paragraph 7 of the Insuring Clause of Part I of the Owner’s Basic Title coverage is hereby extended to cover loss sustained or incurred as a result of the failure by or on behalf of the Insured to obtain replies to the standard forms of local authority land charges register search and enquiries of the local authority and/or a relevant search or enquiry relating to coal, tin, brine, clay, limestone or other mineral extraction or mining activity (hereinafter called a Mining Search of the appropriate authority to which such search or enquiry would be made or referred, where such loss arises as a direct result of an Adverse Entry which would have been disclosed had such replies been obtained by or on behalf of the Insured.

For the purpose of this endorsement, Adverse Entry means any entry registered against the Property in the part of the register of local land charges kept by the registering authority for subsisting registrations against the Property and any matter which would have been disclosed in a reply by a local authority to an enquiry in Conveyancing Form 29 (or any official replacement or substitute form) and any matter which would have been revealed against the Property by a Mining Search.

It is warranted that the Insured has no actual knowledge at the date hereof of any matter which might give rise to a claim under the terms of this endorsement.

All other terms and conditions remain unchanged.
CERTIFICATE NO: XXX/0/00000

CERTIFICATE NO: XXX/0/00000

Contract Effective Date: 00/00/00

Report on Title Dated: (Per Lender’s Report)

Prepared by: (Per Lender’s Report)

The Insured: Mr & Mrs Borrower

of: Address, Address, Address, Address.

Limit of Indemnity: £00,000:00

The Property: Address, Address, Address, Address, Address

any one claim and in the aggregate.

The Mortgagee: Mortgage Lender plc

or his permitted assigns

Premium: Paid

SCHEDULE B
TITLE DEFECTS EXCLUDED

Section 1

This Contract does not insure against loss or damage by reason of the following:

1. Those matters referred to in Part II of this Contract of Insurance.
2. A mortgage dated [ ] in favour of the Mortgagee.

Section 2

In addition to the matters set forth in Section 1 of this Schedule B the title to the estate or interest in the Property is subject to the following matters if any be shown but the Underwriters insure Title to the Property notwithstanding such matters

I. Any Deed of Gift; Defective Lease or Maisonette Indemnity; Lack of Documentary Right of Way or Support; Restrictive Covenants; Rights of Adverse Possession

This Certificate has been signed and dated in accordance with the authorisation granted under
Contract Number: FB 000497

by:

London & European Title Insurance Services Limited
Blagrave House
17 Blagrave Street
Reading RG1 IPW

Signed
LENDER'S TITLE INSURANCE CONTRACT  
(Residential - EW 002)  
Part I  
LENDER'S BASIC TITLE COVERAGE  

Subject to the Exclusions from Coverage (Part II) contained herein and the Terms and Conditions hereof the Underwriters hereby insure the Insured as of the Contract Date and Time stated in Schedule A against Actual Loss not exceeding the Limit of Indemnity stated in Schedule A together with accrued but unpaid interest due under the Mortgage subject to Part III clause 6.5 hereof plus such costs and expenses which the Underwriters may become obliged to pay in respect of such loss sustained or incurred by reason of the matters set out below.

1. The Title to the Property being vested otherwise than in the Mortgagor

2. Any defect in the Title to the Property or any defect or invalidity or claim in respect of any deed document or other instrument by virtue of which the Title is purported to be vested as stated in Schedule A

3. The Title to the Property being other than good and marketable by reason of lost and/or missing deeds documents or other instruments by virtue of which the Title is purportedly vested as stated in Schedule A the necessity of which deeds documents or other instruments are requisite for the purposes of effecting a sale for value of the Property and/or obtaining registration at HM Land Registry of such Title and/or affording a good and valuable security for the Mortgage

4. The lack of capacity or other disability of any predecessor in title to the Mortgagor from any cause including but not limited to personal insolvency the dissolution of a corporate predecessor in title by operation of law or a failure to comply with the provisions of the Matrimonial Homes Act 1967

5. Any restrictive covenant restricting or otherwise adversely affecting the use of the Property as a single family dwelling

6. The lack of at least one means of unrestricted pedestrian access to and egress from the Property and where there is a garage situated upon the Property the lack of a means of suitable vehicular access to and egress from such garage.

7. Any inaccuracy or omission in the replies to the standard forms of local authority land charges register search and enquiries of a local authority (limited in the case of enquiries of local authorities to replies to Part I enquiries) or changes therein prior to the Contract Date.

8. The lack of or defect in any requisite planning permission Building Regulation London Building Acts or bye law approvals in respect of the use of the Property as a single family dwelling.

9. Where the title to the Property is registered at HM Land Registry in addition to the other matters in respect of which this Contract of Insurance affords an indemnity any overriding interests as the same are defined in section 70 (1) of the Land Registration Act 1925.
10. Where the tenure of the Property is leasehold any of the foregoing matters specified in Part I of this Contract of Insurance which have a direct impact on the Title; inconsistency of the Title with any superior interest from which the Title is derived; the non performance, including the failure to pay the reserved rent, or any obligation imposed by the superior interest from which the Title is derived and which obligation or duty had crystallised at the Contract Date and Time but not otherwise.

11. The invalidity of or unenforceability of the Mortgage or the inability of the Insured to perfect its security save to the extent that such invalidity unenforceability or inability of the Insured to perfect its security or claim in respect thereof arises from and out of a transaction falling within and based upon the Consumer Credit Act 1974 or other similar legislation.

12. Any other mortgage charge encumbrance or other similar encumbrance secured upon the Property having priority over the Mortgage subject nevertheless to Schedule B of Part IV hereof.

13. The invalidity or unenforceability of any assignment novation other substitution of the Insured or transfer of the Mortgage or the failure of any such assignment novation other substitution of the Insured or transfer to vest right and title in the Mortgage in the assignee transferee or other person to whom it is purported to substitute provided that all charges taxes levies imposts duties fees and other costs due or incurred in respect thereof have been met and settled.

Part II

EXCLUSIONS FROM COVERAGE

This Contract of Insurance shall afford no indemnity in respect of the following matters and the Underwriters will make no payment in respect of any loss damage costs fees or other similar expenses arising by reason of:

1. Changes in the use of the Property subsequent to the Contract Date.

2. Defects encumbrances adverse claims or other such matters
   2.1 adverse to the interests of the Insured which were created agreed assumed or permitted by the Insured.
   2.2 not known to the Underwriters and not disclosed by any document of title but which were known to the Insured at the Contract Date and which matters were not disclosed in writing to the Underwriters prior to the Contract Date.
   2.3 which result in no loss to the Insured.
   2.4 created suffered agreed assumed or attaching to the Property or otherwise coming into existence after the Contract Date except where the same are specifically covered by this Contract of Insurance by means of endorsement.
2.5 which result in loss or damage and which loss or damage would not have been sustained had
the title to or interest or estate in the Property or the Mortgage been acquired for value in good
faith by the Insured and the Mortgagor

3. The right and title of the Crown or any other statutory body in and to precious metals
petroleum coal and such other substances in or under the Property as shall from time to time be
reserved by and to the Crown and the related rights to use the Property for such purposes

4. Any loss damage fees costs or other expenses the Insured may suffer in respect of seepage
pollution contamination or other deleterious matter in or over or to the Property

5. Such other matters as may be specified in Section 1 of Schedule B of Part IV

6. This Contract does not cover

(a) loss or destruction of or damage to any property whatsoever or any loss or expenses
whatsoever resulting or arising therefrom or any consequential loss

(b) any legal liability of whatsoever nature
directly or indirectly caused by or contributed to by or arising from

(i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear
waste from the combustion of nuclear fuel

(ii) the radioactive toxic explosive or other hazardous properties of any explosive nuclear
assembly or nuclear component thereof or the combustion of nuclear fuel

(iii) electromagnetic fields

Where in any action suit or other proceedings the Underwriters allege that by virtue of the provisions of these
exclusions any loss damage costs fees or other expenses are not covered by this Contract of Insurance the
burden of proving that any one or more of these exclusions does not apply shall lie with the Insured

Part III

TERMS AND CONDITIONS

33
1. Definitions

1. In this Contract of Insurance including the Schedules

1.1 The following words phrases and expressions shall have the following meanings unless the context in which such words phrases and expressions are used shall otherwise require

"Actual Loss" shall mean the lesser of either:

(i) the cost to Underwriters of rectifying the Title defect in respect of which the claim is made; or

(ii) the unpaid principal balance of the Mortgage together with accrued but unpaid interest thereon subject to Part III clause 6.5 hereof at the date on which the claim is paid by the Underwriters to the Insured; or

(iii) the Limit of Indemnity set out in Schedule A of Part IV

provided always that under no circumstances shall the amount of principal payable by Underwriters under sub-clause (ii) above exceed the open market value of the Property at the time monies were advanced by the Insured pursuant to the terms of the Mortgage, together with such unpaid interest as may have accrued on such sum up to the date on which Notice of the claim was given.

"Contract Date" shall mean the date and time so stated in the Certificate of Title Insurance appended hereto

"The Insured" shall mean the person so stated in Schedule A of the Certificate of Title Insurance

"Lessor" shall mean any reversioner to the Mortgagor's interest in the Property or any other person having vested in them a superior title to that of the Mortgagor

"Limit of Indemnity" shall mean the sum stated in respect of the Property in respect of which this Contract of Insurance affords an indemnity as the same is more particularly specified in Schedule A subject nevertheless to the provisions of clause 6 hereof

"the Mortgage" shall mean any legal mortgage or charge on the Property executed by the Mortgagor securing the loan therein stated full particulars of which are stated in Schedule A

"the Mortgagor" shall mean the person or persons who have executed the Mortgage in favour of the Insured whether singly or jointly as stated in Schedule A

"the Property" shall mean all that piece or parcel of land together with the buildings messuages and other structures situated thereupon more particularly specified in Schedule A subject to and with the benefit of the matters referred to therein and upon which the Mortgage is secured

"Solicitor" shall mean for the purposes of this Contract of Insurance any person permitted by law to describe themselves as a solicitor or any licensed conveyancer or any partner or employee of the firm of solicitors or licensed conveyancers acting on behalf of the Insured
"the Surveyor" shall mean any valuer or surveyor acting on behalf of the Insured together with any partner or employee thereof.

"Title" shall mean the aggregate of the deeds conveyances transfers and other documents by which the rights and interests in over or to the Property shall be vested in any person natural or otherwise except where the context otherwise requires words denoting the singular shall include the plural and vice versa; words denoting any gender shall include the other genders and shall include corporations and vice versa.

1.3 clause headings are for ease of reference only and do not affect the construction of this Contract of Insurance.

1.4 All references to a statutory provision shall be construed as including references to:

1.4.1 any statutory consolidation or re-enactment (whether before or after the Contract Date) for the time being in force.

1.4.2 any statutory orders or instruments made pursuant to any of the matters referred to in 1.4.1 above.

1.4.3 any statutory provisions of which it is a consolidation or re-enactment.

2. Notices

2.1 All communications between the Underwriters and the Insured and/or their respective solicitors relating to this Contract of Insurance shall be delivered by hand or sent by first class pre-paid post or by facsimile transmission to the address of the addressee set out herein or to such other address as the addressee may from time to time have notified in writing to the other party for the purpose of this clause.

2.2 Communications in writing shall be deemed to have been received:

2.2.1 if sent by first class pre-paid post: two business days after posting exclusive of the day of posting.

2.2.2 if delivered by hand: on the day of delivery.

2.2.3 if sent by facsimile transmission: at the time of transmission.

2.3 In proving service:

2.3.1 delivery by hand: it shall be necessary only to produce a receipt for the communication signed by or for and on behalf of the addressee.

2.3.2 by post: it shall be necessary only to prove that the communication was contained in an envelope which was duly addressed and posted in accordance with this clause.
2.3.3 by facsimile transmission: it shall only be necessary to prove that no notice of failure of receipt had been received by the party making the transmission and by proof of posting the original copy of the transmission in the same manner as for proof of postage

3. Entire Agreement and Schedules

3.1 This Contract of Insurance and the Schedules shall constitute the entire agreement and understanding between the parties with respect to all matters referred to herein

3.2 All Schedules form part of this Contract of Insurance

4. Applicable Law

This Contract of Insurance shall be governed by and construed in accordance with the laws of England and Wales and the parties hereto irrevocably submit to the exclusive jurisdiction of the High Court of Justice of England and Wales in respect of any dispute or matter arising out of or connected with this Contract of Insurance save where specific provision is made to the contrary herein

5. Dispute Resolution

In the event of any dispute or difference arising as to any sum to be paid under this Contract of Insurance (liability otherwise being admitted) such dispute or difference shall be referred to an Arbitrator to be appointed by the President for the time being of the Chartered Institute of Arbitrators in accordance with the statutory provisions in respect thereof from time to time in force. Where any dispute or difference between the parties is by this clause to be referred to arbitration the making of an award shall be a condition precedent to any right of action against the Underwriters

6. Limits of Cover

6.1 The indemnity afforded by this Contract of Insurance shall not exceed the amount of the Actual Loss incurred by the Insured, provided the such loss arises as a result of one or more of the matters set out in Part I hereof

6.2 The Underwriters shall incur no liability to make any payment to the Insured in respect of any defect or alleged claim if the Underwriters secure the removal of or remedy the defect within six months after having received the proof of loss referred to in clause 9.1

6.3 Any payment made to the Insured as a result of the indemnity afforded by this Contract of Insurance shall reduce the Limit of Indemnity by a like sum

6.4 Where the Insured does or fails to do any act which may adversely affect the right to recover any sum from any third party in respect of any indemnity afforded by this Contract of Insurance the Underwriters may deduct from any sum otherwise due to the Insured the amount by which the value of such rights is reduced or the Underwriters may recover such sum from the Insured if the Underwriters shall have previously made payment in respect of such claim

6.5 Any payment which the Underwriters are liable to make to the Insured as a result of the indemnity afforded by this Contract of Insurance shall carry interest as follows:-
(1) Interest accrued under the Mortgage but unpaid for any one or more of the reasons set out in Part I hereof as at the date of notification of the claim hereunder, for a maximum of three months immediately preceding the date of such notification.

(2) Interest on the unpaid principal balance of the Mortgage, from 30 days after the Insured has provided to the Underwriters the fully detailed and particularised Proof of Loss required pursuant to clause 9.1 hereof, until the date upon which payment is made to the Insured, subject to a maximum period of six months from the date of provision of the Proof of Loss, and provided further that:-

(i) interest shall be payable at the lower of either the fixed rate prescribed by the Mortgage (if any), or the variable rate recommended from time to time by the Building Societies Association to its members; and

(ii) Underwriters will not be liable for any penalty or default rate of interest.

7. Commencement and Duration of Contract

7.1 This Contract of Insurance shall commence on the date and at the time specified in Schedule A hereof.

7.2 This Contract of Insurance shall continue in full force and effect until such time as the first of the following events may occur whereupon the indemnity afforded by this Contract of Insurance shall cease and terminate forthwith namely:-

7.2.1 when the Mortgagor shall have discharged his indebtedness to the Insured under the terms of the Mortgage secured upon the Property upon the occurrence of which event the Insured shall promptly notify the Underwriters in writing.

7.2.2 upon the payment by the Underwriters to the Insured of the Limit of Indemnity.

7.2.3 where the Insured shall have repossessed the Property pursuant to the terms of the Mortgage upon the completion of the sale of the Property by the Insured upon the occurrence of which event the Insured shall promptly notify the Underwriters in writing.

8. Indemnity

8.1 The Underwriters will subject to the terms conditions warranties and exclusions contained or referred to in this Contract of Insurance in respect of claims notified to them during the term of this Contract of Insurance indemnify the Insured against such loss and damage as is more particularly defined in Part I hereof and for which the Limit of Indemnity is stated in and specified in Schedule A.

8.2 The Underwriters will further pay (in addition to the Limit of Indemnity) any costs or expenses incurred in the defence or settlement of any claim which fails to be handled by virtue of the indemnity afforded by this Contract of Insurance provided always that the Underwriters shall incur no such liability in respect of any costs or expenses incurred prior to the giving of notice pursuant to clause 9.4 hereof and further provided that this Contract of Insurance shall afford no indemnity in respect of any in-house costs or expenses incurred by the Insured whether before or after the giving of notice pursuant to clause 9.4 hereof (where in-house costs shall mean all those costs and expenses which the Insured...
shall incur excepting such costs and expenses which involve the making of a payment to any third party but not to include any payment to any subsidiary associated or otherwise connected entity whether incorporated or otherwise)

8.3 In the event of any claim being made under the terms hereof all reasonable means and steps to secure recovery shall be pursued by the Insured (including but not limited to recovery under any other policy of insurance arranged by the Insured or the Mortgagor) and fully exhausted before the operation of the indemnity afforded by this Contract of Insurance but without prejudice to the generality of the foregoing whilst the Insured shall not be obliged to prosecute or defend any judicial or administrative proceedings relating to the Property

8.4 The liability of the Underwriters (exclusive of costs or expenses payable under clause 8.2 and interest payable under clause 6.5) shall not exceed the Limit of Indemnity specified in Schedule A of this Contract of Insurance

8.5 Subject to the terms and conditions of this Contract of Insurance where the Underwriters shall become liable to make any payment to or on behalf of the Insured

(i) in respect of any one or more of the matters referred to in Part I of this Contract of Insurance such payment shall be made by the Underwriters within 30 days of the giving of notice in writing by the Underwriters to the Insured of acceptance of liability and the final determination of the Actual Loss, and

(ii) in respect of any costs and/or expenses incurred by the Insured pursuant to clause 8.2 above where the Underwriters shall have accepted a claim made under Part I of this Contract of Insurance within 30 days of the Insured giving notice in writing to the Underwriters of the amount of such costs and/or expenses subject to the Underwriters having vested in them all the Insured's rights and remedies relating thereto provided that the Insured shall not make such claims in respect of costs and/or expenses at intervals of less than three months

9. Notice of Claim

9.1 The Insured shall give notice in writing to the Underwriters within fourteen days after being made aware of any matter upon which a claim is based. Within ninety days of the giving of the notice referred to above the Insured shall provide the Underwriters with a fully detailed and particularised proof of loss in such manner as shall reasonably be required. It is a condition precedent to the liability of the Underwriters under this Contract of Insurance that the Insured shall both give notice and provide proof of loss within the periods of time specified above and that the Insured shall also as soon as is practicable provide the Underwriters with copies of all correspondence notices writs summonses and/or other documents of whatsoever nature bearing upon the claim or loss

9.2 The Insured shall make no admission promise payment indemnity or in any other manner compromise or settle any claim loss or damage in respect of which this Contract of Insurance does or may afford an indemnity nor shall any costs or expenses be incurred by or on behalf of the Insured in respect of any matter in respect of which this Contract of Insurance does or may afford an indemnity without the prior written consent of the Underwriters

9.3 The Underwriters shall be entitled to take over and conduct in the name of the Insured the
defence and/or settlement of any claim and/or to prosecute in the name of the Insured for their own benefit any claim and the Underwriters shall have full discretion in the conduct of all and any proceedings and in the settlement of any claim in respect of which this Contract of Insurance affords an indemnity. At all times the Insured shall give such information and assistance as the Underwriters may reasonably require.

9.4 The Underwriters may at any time in respect of claims made against the Insured pay to the Insured the Limit of Indemnity (after the deduction of any sum previously paid under this Contract of Insurance in respect of the same Property) or such lesser sum for which such claim may be settled whereupon the Underwriters shall relinquish control of such claim and be under no further liability in respect thereof save to the extent of such costs fees and expenses incurred prior to payment by Underwriters to the Insured of the Limit of Indemnity.

9.5 The Insured shall at all reasonable times subject to the giving of reasonable notice by the Underwriters afford access to the Underwriter's duly authorised representatives for the purposes of investigating the circumstances of any loss or damage sustained or claimed by the Insured in respect of which this Contract of Insurance does or may afford an indemnity. The Insured shall at its own expense provide the Underwriters such assistance as they may reasonably require for the purposes of investigating said circumstances including but not limited to the furnishing of all books of account, computer records, receipts and other records pertaining to the subject matter of the claim in whatsoever manner the same may be stored and all communications passing between the Insured and their solicitors, surveyors, other professional advisers, intermediaries (to include financial advisers) and third parties which it may have in its possession. The Insured shall at its own expense provide the Underwriters with copies of such of the above as they may reasonably require and the Insured shall otherwise provide all reasonable assistance to the Underwriters in the investigation of any loss in respect of which this Contract of Insurance does or may afford an indemnity and the Underwriters shall not be precluded from using anything disclosed by the Insured for the purposes of defending or pursuing any claim or recovery by or against the Insured or by or against any third party.

9.6 Any recovery which either the Underwriters or the Insured shall make subsequent to the making of any payment to the Insured in respect of any loss in respect of which this Contract of Insurance affords an indemnity shall inure firstly to the Insured to the extent only of any payment made or loss incurred by the Insured in excess of the Limit of Indemnity in respect of that loss and any surplus thereafter to the benefit of the Underwriters.

9.7 The Insured hereby agrees and acknowledges that any sums it shall hold for the benefit of the Underwriters it shall

9.7.1 hold in trust for the Underwriters, and

9.7.2 that it will pay such sums received to the Underwriters promptly upon the receipt thereof by it and/or any other person on its behalf.

9.8 In addition to but without any obligation in respect thereof the Underwriters may but shall be under no obligation so to do purchase the Mortgagor's indebtedness to the Insured at any time after the notification of a claim to the Underwriters.
9.9 When the Underwriters shall have made or become liable to make payment to the Insured in respect of any matter by virtue of which this Contract of Insurance affords an indemnity they shall have vested in them all the rights of the Insured against any person or property relating to the subject matter of that indemnity and the Insured shall at the request of the Underwriters transfer all such rights to the Underwriters.

10. General Conditions

10.1 The due observance of the terms conditions warranties time limits and provisions of this Contract of Insurance insofar as they relate to any act required to be done or required not to be done or otherwise requiring compliance with the terms of this Contract of Insurance shall be and are hereby expressly agreed to be conditions precedent to the liability of the Underwriters to make any payment under the terms hereof

10.2 The Insured shall take all reasonable and prudent steps to prevent and/or mitigate any loss damage costs or expenses in respect of which this Contract of Insurance does or may afford an indemnity

10.3 The liability of the Underwriters shall not be extended or increased by reason of the making of further advances and interest accrued in respect thereof after the date of this Contract of Insurance without the prior written consent of the Underwriters for which additional premium may be charged by the Underwriters

10.4 Where any court or tribunal of competent jurisdiction shall determine that any provision of this Contract of Insurance is invalid or unenforceable then this Contract of Insurance shall be deemed to exclude such provision and the remaining provisions hereof shall continue in full force and effect

11. Assignment

This Contract of Insurance shall be binding upon each party's successors and assigns subject nevertheless to any Assignee of the interest or any part of the interest of either party giving notice in writing to the other within fourteen days of the completion of such assignment. Subject to the immediately foregoing and otherwise subject to the terms and conditions hereof this Contract of Insurance shall be assignable by either party

EU DISCLOSURE CLAUSE (UK)

The parties are free to choose the law applicable to this Insurance Contract. Unless specifically agreed to the contrary this insurance shall be subject to English law.

Any enquiry or complaints should be addressed in the first instance to your broker.

If you are not satisfied with the way a complaint has been dealt with you may ask the Complaints and Advisory Department at Lloyd's to review your case without prejudice to your rights in law.

Complaints and Advisory Department
Lloyd's

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LENDERS
CERTIFICATE OF TITLE INSURANCE
(EW 002)
Part IV

CERTIFICATE NO:

SCHEDULE A

Report on Title Dated:

Prepared by:

Contract Effective Date and Time:

The Insured:
of:

Term of Mortgage:

Loan Amount:

Limit of Indemnity: any one claim and in the aggregate

The Property: The Mortgagor:

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SCHEDULE B

TITLE DEFECTS EXCLUDED

Section 1

This Policy does not insure against loss or damage by reason of the following:-

1. Those matters referred to in Part II of this Contract of Insurance
2.

Section 2

In addition to the matters set forth in Section 1 of this Schedule B the title to the estate or interest in the Property is subject to the following matters if any be shown but the Underwriters insure the priority and enforceability of the Mortgage notwithstanding such matters

1. (DESCRIPTION OF THE DEFECT(S) TO BE INSURED)

This Certificate has been signed and dated in accordance with the authorisation granted under Contract Number: FB950400

by:

London & European Title Insurance Services Limited
Blagrave House
17 Blagrave Street
Reading RG1 1WP

LOCAL AUTHORITY AND MINING SEARCH ENDORSEMENT

(LENDER'S)
Paragraph 7 of the Insuring Clause of Part I of the Lender's Basic Title coverage is hereby extended to cover loss sustained or incurred as a result of the failure by or on behalf of the Insured to obtain replies to the standard forms of local authority land charges register search and enquiries of the local authority and/or a relevant search or enquiry relating to coal, tin, brine, clay, limestone or other mineral extraction or mining activity (hereinafter called a "Mining Search") of the appropriate authority to which such search or enquiry would be made or referred, where such loss arises as a direct result of an Adverse Entry which would have been disclosed had such replies been obtained by or on behalf of the Insured.

For the purpose of this endorsement, "Adverse Entry" means any entry registered against the Property in the part of the register of local land charges kept by the registering authority for subsisting registrations against the Property and any matter which would have been disclosed in a reply by a local authority to an enquiry in Conveyancing Form 29 (or any official replacement or substitute form) and any matter which would have been revealed against the Property by a Mining Search.

It is warranted that the Insured lends on properties throughout the United Kingdom and not exclusively in areas that are or have been the subject of mining or other mineral extraction activities.

All other terms and conditions remain unchanged.

LONDON & EUROPEAN TITLE INSURANCE SERVICES LIMITED

by ________________________________