

Insuring Leases

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Takeaway Goals

- Necessity for a policy with leasehold endorsement because a lease is the purchase of an interest in real estate.
- Leasehold endorsement coverage for all leases.



Takeaway Goals

- Estimating potential future damages to determine amount of policy.
- We will accept reasonable estimates of future damages for purposes of determining the amount of coverage of leasehold coverage to purchase.
- Evaluating the commitment and closing the lease transaction.



Florida Law on Leasehold Estates

“During the life of a lease, the lessee holds an outstanding leasehold estate in the premises, which for all practical purposes is equivalent to absolute ownership. The estate of the lessor during such time is limited to his reversionary interest, which ripens into perfect title at the expiration of the lease.”

Trump Enterprises, Inc. v. Publix Supermarkets, Inc., 682 So. 2d 168, 169 (Fla. 4th DCA 1996), citing headnote in *Rogers v. Martin*, 87 Fla. 204, 99 So. 551 (1924).



Mortgaging Leaseholds

“The Supreme Court of Florida has specifically recognized the mortgaging or pledging of leasehold interests in realty.” *Oliver v. Mercaldi*, 103 So.2d 665, 667 (1958).



Property Interests In Leases: Good and Fixtures

Florida Uniform Commercial Code Chapter 680:

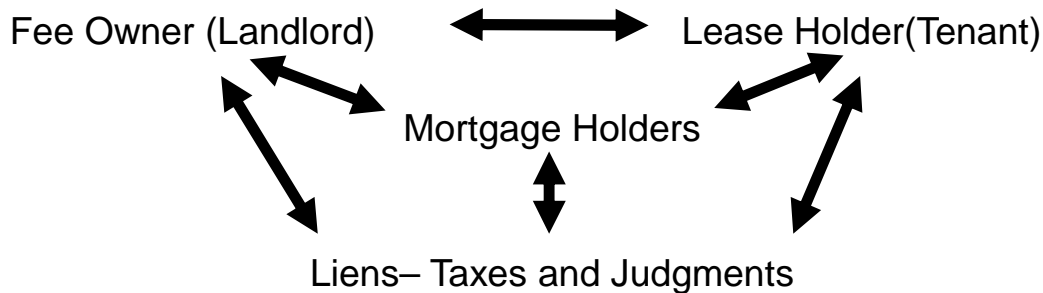
“Goods” means all things that are movable at the time of identification to the lease contract, or are fixtures (Sec. 680.309, F.S.) . . .” Sec. 680.1031, F.S.,
-and-

“Goods are “fixtures” when they become so related to particular real estate that an interest in them arises under real estate law.” Sec. 680.309, F.S.



Parties in Interest

Parties in Interest to the Leasehold Estate



The Fee Holder – Landlord

Rights reserved by landlord:

- Landord's rights in nature of reservation and reverter.
- May limit the right to mortgage the leasehold.
- Retain and own improvements upon the termination.
- Automatically subordinates the lease to all future lenders of the landlord.
- Subject the lease to Declarations of Conditions, Covenants, and Restrictions (CCRs).
- Prohibit assignments and subleases.
- Impact tenant's rights if evicted.

The Landlord's Mortgage Holder

- Mortgages on the fee.
- Recorded before the lease: priority.
- Recorded after the lease: subordinate.
- Automatic subordination of lease to future mortgages.
- The Subordination, Non-Disturbance, and Attornment Agreement – the “SNDA.”



Liens Against Landlord

- Judgment liens.
- Unpaid property taxes.
- Tax liens – IRS and state.
- Municipal liens, development orders, environmental liens.
- Consider SNDA.



Liens Against Tenant

- Judgment liens.
- Commercial landlord's lien for unpaid rent – Sec. 83.08, F.S.
- Unpaid property taxes.
- Tax liens – IRS and state.
- Municipal liens and environmental liens.
- Subordination of leasehold collateral.



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Need for Title Policy with Leasehold Endorsement

- Risks of entering leasehold are the same as purchasing any real estate in fee simple.
- The commitment gives you the roadmap of the prior recorded interests.
- The policy with Leasehold Endorsement provides insurance coverage for the leasehold owner and the leasehold lender.
- Potential damages dictate need for the title insurance
- Available for all leases- residential, commercial, vacant land, ground leases, cooperatives (co-op).



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The Leasehold Endorsement

- History of the product pre-2001 “Leasehold Policy.”
- Present:
 - ALTA 13-06: Owner’s Policy with Leasehold Endorsement.
 - ALTA 13.1-06: Lender’s Policy with Leasehold Endorsement.



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Same Jacket Coverage- Owner’s-Lender’s

- Same jacket coverage as the owner’s and lender’s policy – same jacket.
- Same covered risks.
- Same exclusions.
- The ALTA owner’s jacket defines “Land” as an interest that by law constitutes real property – personal property not insured.
- The Leasehold Endorsement adds provisions to apply the standard owner’s and lender’s policies to leaseholds.



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The Leasehold Endorsements – “Eviction”

- Definition of “Evicted” or “Eviction.”
- "Evicted" or "Eviction": (a) the lawful deprivation, in whole or in part, of the right of possession insured by this policy, contrary to the terms of the Lease or (b) the lawful prevention of the use of the Land or the Tenant Leasehold Improvements for the purposes permitted by the Lease, in either case as a result of a matter covered by this policy.



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The Leasehold Endorsements – “Claims”

- Paragraph 2: The value shall consist of the value for the Remaining Lease Term of the Leasehold Estate and any Tenant Leasehold Improvements existing on the date of the Eviction.

Plus, Without Duplication:

- Paragraph 3: Specific Items of Loss Lists Seven Specific Types of Damages that are Recoverable in Subparagraphs (a), (b), (c), (d), (e), (f), and (g).



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The Leasehold Endorsements – “Claims”

- **Endorsement Paragraph 3 (a):**

The reasonable cost of (i) removing and relocating any Personal Property that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, (ii) transportation of that Personal Property for the initial one hundred miles incurred in connection with the relocation, (iii) repairing the Personal Property damaged by reason of the removal and relocation, and (iv) restoring the Land to the extent damaged as a result of the removal and relocation of the Personal Property and required of the Insured solely because of the Eviction.



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The Leasehold Endorsements – “Claims”

- **Endorsement Paragraph 3 (b):**

Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.



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The Leasehold Endorsements – “Claims”

- **Endorsement Paragraph 3 (c):**

The amount of rent that, by the terms of the Lease, the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate and Tenant Leasehold Improvements from which the Insured has been Evicted.



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The Leasehold Endorsements – “Claims”

- **Endorsement Paragraph 3 (d):**

The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease permitted by the Lease and made by the Insured as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.



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The Leasehold Endorsements – “Claims”

- **Endorsement Paragraph 3 (e):**

Damages caused by the Eviction that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease permitted by the Lease and made by the Insured as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.



The Leasehold Endorsements – “Claims”

- **Endorsement Paragraph 3 (f):**

The reasonable cost to obtain land use, zoning, building and occupancy permits, architectural and engineering services and environmental testing and reviews for a replacement leasehold reasonably equivalent to the Leasehold Estate.



The Leasehold Endorsements – “Claims”

- **Endorsement Paragraph 3 (g):**

If Tenant Leasehold Improvements are not substantially completed at the time of Eviction, the actual cost incurred by the Insured, less the salvage value, for the Tenant Leasehold Improvements up to the time of Eviction. Those costs include costs incurred to obtain land use, zoning, building and occupancy permits, architectural and engineering services, construction management services, environmental testing and reviews, and landscaping.



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The Leasehold Endorsements – “Claims”

Remember:

The losses covered are capped by the coverage amount.



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Valuing the Leasehold

- Valuing the leasehold.
- Locating comparable space.
- Remaining term of lease.
- Relocating improvements.
- Replacing improvements.

Valuing the Leasehold

It may not be an easy task to definitely determine the amount of insurance, but we do not question any reasonable estimate. TN 19.03.03.

Valuing the Leasehold

Valuation of leasehold – definition:

“The value of the leasehold estate is the difference between the fair market rental value for the remainder of the lease term and the amount to be paid under the lease for the same period.” TN 19.03.03.

Valuing the Leasehold

- Cost of removing and relocating personal property.

Valuing the Leasehold

- Cost to secure replacement leaseholds; real estate commissions, expenses.

Sample Estimation of Value

- 5 year lease.
- \$100,000 annual rent CPI escalators.
- \$150,000 in tenant improvements.
- What is coverage amount?

Sample Estimation of Value

- First estimate: value of the remaining lease term:
- The tenant estimates that replacing the space will cost an additional \$10,000.00 per year over CPI escalators.
- 5 years @ \$10,000.00 per year = \$50,000 for rising rental rates in excess of CPI.



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Sample Estimation of Value

- Second estimate: tenant improvements.
- \$150,000 tenant improvements – cost to replace or move - \$150,000.00.



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Sample Estimation of Value

Additional costs:

- Realtor fees/permits/licenses/relocation costs.



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Sample Estimation of Value

- \$50,000 (Increase in market value of rent over life of lease).
- \$150,000.00 (Purchasing or moving tenant improvements).
- \$100,000.00 (Realtor, licensing and permitting fees).
- \$50,000 (Unidentified recoverable damage).
- \$350,000.00 Coverage.



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The Commitment

- Commitment is a standard:
 - Owner's commitment.
 - Lender's commitment.



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The Commitment - Requirements

- Execution and Recordation of a Lease, Memorandum of Lease, or Assignment of Lease.
- Lease must have description of land.
- Persons signing for Landlord and Lessor must have authority.
- If for more than one year, Lease must have two witnesses (See *Skylake Case*, 23 So.3d 175 (Fla. 3rd DCA 2009)).
- Notices of Commencement.
- Estoppel letters, Satisfactions of Prior Mortgages, Affidavits of No Lien, Co-op Transfer Documents.



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The Commitment - Requirements

Exceptions

- Plat.
- Rights of Fee Simple Owner and Prior Mortgages.
- Conditions, Covenants, Restrictions.
- Other leases.
- Terms and Conditions of the Lease.
- Mortgages.
- SNDAs.
- Taxes – Personal and Real Estate.
- Easements.
- Survey issues.
- Tax Liens.
- Judgments.
- NOCs.



The Commitment - Exceptions

- CCRs – Use Restrictions?
- Other Leases – Protected Territories or Types of Businesses?
- Prior mortgages – Does Tenant need an SNDA?
- Access?



The Commitment – Cover Letter and Schedule A

- Cover letter refers to federal tax lien search when insuring a leasehold.
- The estate or interest in the Land will be described as Leasehold.



The Commitment - Requirements

The instrument to be insured will refer to a required Lease or Memorandum of Lease.



The Commitment - Requirements

If a leasehold mortgage, the instrument to be insured will refer to a required Leasehold Mortgage.



The Commitment - Requirements

The requirements will include recordation of any necessary extensions by exercise of options on lease.



The Commitment - Requirements

The requirements will include recordation of affidavit that lease is in full force and effect, is current, that there are no unrecorded amendments, modifications, or transfers affecting the lease; and no breach of any covenants, conditions, or other provisions of the lease.



The Commitment - Requirements

The requirements will include informational notes identifying the required endorsements for leasehold endorsements.



The Commitment - Exceptions

The terms and conditions of the lease are excepted from coverage in the language of the exception.

The Commitment - Exceptions

Typically, the following are also shown as exceptions:

The interest of fee simple holder; and

disclaimer on search of tenant's name of recorded lease.

Review of Takeaway Goals

- Necessity for a policy with leasehold endorsement because a lease is the purchase of an interest in real estate.
- Leasehold endorsement coverage for all leases.



Review of Takeaway Goals

- Estimating potential future damages to determine amount of policy.
- We will accept reasonable estimates of future damages for purposes of determining the amount of leasehold coverage to purchase.
- Evaluating the commitment and closing the lease transaction.



Thank You!
for attending



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PRACTICAL TIPS AND CONSIDERATIONS IN INSURING LEASEHOLDS

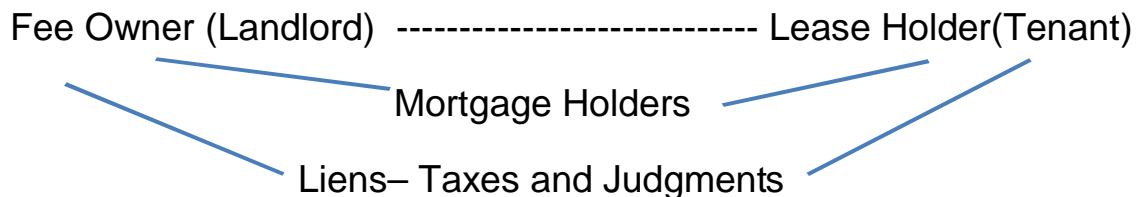
1. Property interests in leases: Goods and Fixtures

Practical Tip: To analyze potential future damages to the tenant in the event of the failure of title to the leasehold, one component of this analysis is to analyze the tenant's property that can be removed if there is an eviction and the tenant makes a claim under the leasehold endorsement. This relates to the tenant's property that stays with the real estate or that otherwise is rendered valueless by the loss of the lease, and the property that the tenant can remove and relocate. The tenant's right to remove property is often controlled by express terms of the lease. Some leases, for example, provide that certain types of improvements become the property of the landlord. In the event of an eviction and a claim on the title policy, the terms of the lease may not control, but instead, Florida law of fixtures may apply to deem the tenant's moveable goods to be fixtures of the real estate and not removeable.

This analysis comes into play when the potential damages to a tenant are estimated under the leasehold endorsement in order to determine the proper amount of coverage for the owner's and lender's policies with the leasehold endorsements.

Practical Tip: Attorneys should recognize that this is perhaps the most significant reason a leasehold interest should be insured by a tenant given that the prevention of use of lease space may cost a tenant more than the mere loss of the space for the lease term.

2. Parties in Interest to the Leasehold Estate: Identifying the type of Lease and the Parties in Interest



Practical Tip: It is important to immediately identify the parties in interest to the lease. Examining a Leasehold estate involves all six of these classes of parties, whether they exist, and how their interests interact with one another and impact the leasehold. In addition, consider that as to the parties listed above, a leasehold interest can be a direct lease with the fee simple owner, a ground lessor, or an assignment of a lease.

3. The Fee Holder: The Landlord

Practical Tip: Consider whether you will have the ability to negotiate non-standard terms with large retail stores that occupy vast amounts of square footage and often serve as anchors in shopping centers, so called “big box” tenants, which will likely force attorneys to review and comment on the form “big box” leases that are routinely used by those companies irrespective of State; therefore, it is important to consider whether the form is compliant with Florida law or addresses your client’s concerns should there be a dispute.

4. The Landlord’s Mortgage Holders

Practical Tip: In evaluating mortgages on the fees, and the SNDAs, in analyzing a commitment for a leasehold endorsement, we offer practical tips in reviewing the transaction:

Consider the following questions:

- Who is in the priority position, the lease or the mortgage?

- Is there an SNDA?
- Is there an automatic subordination clause for future lenders? Many leases provide that the lease is not only subordinate to the current lender, but if the fee holder obtains a new mortgage in the future, the lease automatically becomes subordinated to the new lender without the consent, or even the knowledge, of the tenant. In your materials we have included some sample automatic subordination clauses. For these clauses to be effective, we look at the following elements:
 - Does the SNDA survive future assignments of the mortgage?
 - Does the SNDA survive future refinancings? That is, if there is a good SNDA that protects the leasehold, can the fee holder eliminate those rights by simply refinancing the property, and thereby automatically subordinate the lease to the new mortgage without the protection of an SNDA? We are looking to see if the SNDA protects the lease in the event of future assignments or refinancing of the fee. A practical tip here is to consider taking a holistic or whole-picture analysis of SNDAs or automatic subordination clauses such as the language itself and the definitions used as contemplating future or post-lease financings. In addition, we consider facts relating to the tenancy itself: is it a “big box” deep pocket tenant, is there a significant lease term remaining, including possible options to extend, and if not a “big box” tenant then is this tenant otherwise of no concern to landlord, that is, not apt to be disruptive or problematic and also has a shorter lease term.

5. Lease Holder, Leasehold Mortgages, Leasehold Liens

Practical tip: Consider that some leases permit the lessor to gain a security interest and file a UCC in connection with the collateral that may not initially have been paid with a leasehold mortgage but may later, such as by way of improvement or expansion, be so financed. In this case, a practitioner will want to be sure that the lease does not contain such rights given future improvements may require financing. These issues should be considered at the inception of the lease in order to avoid the need to negotiate with landlord after the execution of initial lease. As an example, a restaurant purchases a built-in ice machine with a leasehold mortgage, and the landlord subordinates any

landlord's lien claims to the leasehold mortgage. Later, the tenant trades that ice machine in for a new one, and obtains a future advance from the secured lender. Make sure that the subordination clauses in the lease protect that type of future advance, or alternatively, decide whether there is a need to obtain a new subordination agreement from the landlord for later loans.

6. Valuing the Leasehold

To apply the language of the commitment to a specific lease, we look to at least five elements: valuing the leasehold, the cost of locating and leasing comparable space, the amount of time remaining on the lease, relocating personal property and improvements, and replacing improvements that cannot be relocated.

Practical Tip: Consider having an appraisal performed to assist you in determining amount of insurance coverage. There are appraisers who specialize in these types of appraisals, which may make sense for long-term leases in developing areas where market is not entirely predictable because there are no reasonable comparables or “comps.”

Practical tip: Execute the memorandums of lease, as well as assignments of lease, in the manner as you would a deed. This prevents future required corrective documents from having to be obtained in order to insure.

7. The Need for the Commitment and Coverage

Practical tip: The risks of entering a lease are the same as purchasing any real estate in fee simple. The commitment for the owner's and lender's policy with the leasehold endorsement provides a roadmap of the prior recorded interests and exceptions to the leasehold title. In the event of the failure of the title to the fee, and any resulting failure of title to the leasehold, the owner's policy and the lender's policy with the Leasehold Endorsement provides insurance coverage for the Leasehold Owner and the Leasehold Lender. Where the leasehold endorsement diverges with a standard owner's policy is primarily in the

calculation of damages. The potential damages, such as relocating to a new space, moving personal property, and losing the value of tenant improvements, are addressed by the title policies with the Leasehold Endorsement. Importantly, while a title policy with the leasehold endorsement is often associated only for long-term leases such as big box stores, coverage is available for all leases- residential, commercial, vacant land, ground leases, co-ops- all leases.

The question to ask when considering whether to order a title policy with leasehold endorsement is this: In any lease, if the title to the lease fails, will the tenant sustain damages if the tenant has to move to new space? Is there a chance that the tenant's use will be restricted even if the tenant is still responsible for the rent? If the answer to either of these questions is yes, then an owner's policy with the leasehold endorsement is important to consider for the protection of both the tenant and the tenant's lender.

8. The Leasehold Endorsement: Coverage

Practical tip: The endorsement itemizes the actual coverage in the event of a covered eviction, including relocating personal property, the fair market value of the lease, loss of the tenant's leasehold improvements, the reasonable cost to obtain permits, engineering, and other expenses of relocating as defined in the Endorsement. The amount of coverage caps the amounts that can be claimed under the lease.

9. Evaluating the Commitment

For leases, the evaluation of the exceptions may be slightly different than evaluating exceptions for fee policies.

Practical tip: Review all of the instruments in order to determine if they align with tenant's intended use or possible intended use, as a practical matter. An example of this is where a salon tenant may want to supplement its services potentially with tanning services or selling costume jewelry, which not an immediate use but is a foreseeable one.

Though not an insurance matter, this analysis will assist your client in determining contemplated uses at lease negotiation.

10. Closing the Lease Transaction

Practical tip: The lease has to be entered by persons with authority, entities must be in good standing, the lease must describe the property and there has to be a recording, either the full lease or a memorandum. A lease for more than one year requires two witnesses.

ALTA ENDORSEMENT 13-06 LEASEHOLD - OWNER'S POLICY

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Endorsement No. _____ To Policy No. _____

1. As used in this Endorsement, the following terms shall mean:

- a. "Evicted" or "Eviction": (a) the lawful deprivation, in whole or in part, of the right of possession insured by this Policy, contrary to the terms of the Lease or (b) the lawful prevention of the use of the Land or the Tenant Leasehold Improvements for the purposes permitted by the Lease, in either case as a result of a matter covered by this Policy.
- b. "Lease": the lease agreement described in Schedule A.
- c. "Leasehold Estate": the right of possession for the Lease Term.
- d. "Lease Term": the duration of the Leasehold Estate, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
- e. "Personal Property": chattels located on the Land and property that, because of their character and manner of affixation to the Land, can be severed from the Land without causing appreciable damage to themselves or to the Land to which they are affixed.
- f. "Remaining Lease Term": the portion of the Lease Term remaining after the Insured has been Evicted as a result of a matter covered by this Policy.
- g. "Tenant Leasehold Improvements": Those improvements, including landscaping, required or permitted to be built on the Land by the Lease that have been built at the Insured's expense or in which the Insured has an interest greater than the right to possession during the Lease Term.

2. Valuation of Estate or Interest Insured:

If in computing loss or damage it becomes necessary to value the Title as the result of a covered matter that results in an Eviction of the Tenant, then that value shall consist of the value for the Remaining Lease Term of the Leasehold Estate and any Tenant Leasehold Improvements existing on the date of the Eviction. The Insured Claimant shall have the right to have the Leasehold Estate and the Tenant Leasehold Improvements valued either as a whole or separately. In either event, this determination of value shall take into account rent no longer required to be paid for the Remaining Lease Term.

3. Additional items of loss covered by this Endorsement:

If the Insured is Evicted, the following items of loss, if applicable, shall be included in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title.

- a. The reasonable cost of removing and relocating any Personal Property that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction, the cost of transportation of that Personal Property for the initial one hundred miles incurred in connection with the relocation, and the reasonable cost of repairing the Personal Property damaged by reason of the removal and relocation.
- b. Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.
- c. The amount of rent that, by the terms of the Lease, the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate and Tenant Leasehold Improvements from which the Insured has been Evicted.
- d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease made by Tenant as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.
- e. Damages that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease made by the Tenant as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements caused by the Eviction.
- f. Reasonable costs incurred by the Insured to secure a replacement leasehold equivalent to the Leasehold Estate.
- g. If Tenant Leasehold Improvements are not substantially completed at the time of Eviction, the actual cost incurred by the Insured, less the salvage value, for the Tenant Leasehold Improvements up to the time of Eviction. Those costs include costs incurred to obtain land use, zoning, building and occupancy permits, architectural and engineering fees, construction management fees, costs of environmental testing and reviews, and landscaping costs.

This Endorsement is issued as part of the Policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the Policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the Policy or a previous endorsement is inconsistent with an express provision of this Endorsement, this Endorsement controls. Otherwise, this Endorsement is subject to all of the terms and provisions of the Policy and of any prior endorsements to it.

Name of Agent

Agent No.

Agent's Signature

Old Republic National Title Insurance Company
By **Carolyn Monroe**
President

ALTA ENDORSEMENT 13.1-06 LEASEHOLD - LOAN POLICY
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

Endorsement No. _____ To Policy No. _____

1. As used in this Endorsement, the following terms shall mean:

- a. "Evicted" or "Eviction": (a) the lawful deprivation, in whole or in part, of the right of possession insured by this Policy, contrary to the terms of the Lease or (b) the lawful prevention of the use of the Land or the Tenant Leasehold Improvements for the purposes permitted by the Lease, in either case, as a result of a matter covered by this Policy.
- b. "Lease": the lease agreement described in Schedule A.
- c. "Leasehold Estate": the right of possession for the Lease Term.
- d. "Lease Term": the duration of the Leasehold Estate, including any renewal or extended term if a valid option to renew or extend is contained in the Lease.
- e. "Personal Property": chattels located on the Land and property that, because of their character and manner of affixation to the Land, can be severed from the Land without causing appreciable damage to themselves or to the Land to which they are affixed.
- f. "Remaining Lease Term": the portion of the Lease Term remaining after the Insured has been Evicted as a result of a matter covered by this Policy.
- g. "Tenant": the tenant under the Lease and, after acquisition of all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of this Policy, the Insured Claimant.
- h. "Tenant Leasehold Improvements": Those improvements, including landscaping, required or permitted to be built on the Land by the Lease that have been built at the Insured's expense or in which the Insured has an interest greater than the right to possession during the Lease Term.

2. Valuation of Estate or Interest Insured:

If in computing loss or damage it becomes necessary to value the Title as the result of a covered matter that results in an Eviction of the Tenant, then that value shall consist of the value for the Remaining Lease Term of the Leasehold Estate and any Tenant Leasehold Improvements existing on the date of the Eviction. The Insured Claimant shall have the right to have the Leasehold Estate and the Tenant Leasehold Improvements valued either as a whole or separately. In either event, this determination of value shall take into account rent no longer required to be paid for the Remaining Lease Term.

3. Additional items of loss covered by this Endorsement:

If the Insured acquires all or any part of the Title in accordance with the provisions of Section 2 of the Conditions of this Policy and thereafter is Evicted, the following items of loss, if applicable, shall be included in computing loss or damage incurred by the Insured, but not to the extent that the same are included in the valuation of the Title.

- a. The reasonable cost of removing and relocating any Personal Property that the Insured has the right to remove and relocate, situated on the Land at the time of Eviction the cost of transportation of that Personal Property for the initial one hundred miles incurred in connection with the relocation, and the reasonable cost of repairing the Personal Property damaged by reason of the removal and relocation.
- b. Rent or damages for use and occupancy of the Land prior to the Eviction that the Insured as owner of the Leasehold Estate may be obligated to pay to any person having paramount title to that of the lessor in the Lease.
- c. The amount of rent that, by the terms of the Lease, the Insured must continue to pay to the lessor after Eviction with respect to the portion of the Leasehold Estate and Tenant Leasehold Improvements from which the Insured has been Evicted.
- d. The fair market value, at the time of the Eviction, of the estate or interest of the Insured in any lease or sublease made by Tenant as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements.
- e. Damages that the Insured is obligated to pay to lessees or sublessees on account of the breach of any lease or sublease made by the Tenant as lessor of all or part of the Leasehold Estate or the Tenant Leasehold Improvements caused by the Eviction.
- f. Reasonable costs incurred by the Insured to secure a replacement leasehold equivalent to the Leasehold Estate.
- g. If Tenant Leasehold Improvements are not substantially completed at the time of Eviction, the actual cost incurred by the Insured, less the salvage value, for the Tenant Leasehold Improvements up to the time of Eviction. Those costs include costs incurred to obtain land use, zoning, building and occupancy permits, architectural and engineering fees, construction management fees, costs of environmental testing and reviews, and landscaping costs.

This Endorsement is issued as part of the Policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the Policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the Policy or a previous endorsement is inconsistent with an express provision of this Endorsement, this Endorsement controls. Otherwise, this Endorsement is subject to all of the terms and provisions of the Policy and of any prior endorsements.

Name of Agent

Agent No.

Agent's Signature

By

Old Republic National Title Insurance Company
Carolyn Monroe