



# Fidelity National Title

INSURANCE COMPANY

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## TIRSA APPLICATION FOR THE ISSUANCE OF A RECORDED DOCUMENT CERTIFICATE

Certificate No.: \_\_\_\_\_

Applicant, for the purpose of purchase, sale, lease or loan, is in the process of investigating the prior ownerships and uses of the SUBJECT PROPERTY. As only a component of that investigation, Applicant hereby requests \_\_\_\_\_, the COMPANY, to furnish Applicant with a Recorded Document Certificate, which CERTIFICATE will set forth and attach copies of the DESIGNATED DOCUMENTS. The CERTIFICATE is being provided to Applicant solely for the purpose of facilitating any innocent landowner, lender, purchaser or lessee defenses which may be available under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended. It is provided for the sole use and benefit of Applicant and may not be used or relied upon by any other party.

1. The following terms when used in the Application and the Recorded Document Certificate shall mean:
  - a. CERCLA - Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended;
  - b. CERTIFICATE - Recorded Document Certificate;
  - c. COMPANY - the entity providing and executing the Recorded Document Certificate;
  - d. DESIGNATED DOCUMENTS - Those documents specifically designated by Applicant in paragraph 3 and which describe the SUBJECT PROPERTY or any portion thereof and which are not EXCLUDED DOCUMENTS;
  - e. EXCLUDED DOCUMENTS - Any of the following:
    - i. documents contained in the Company's title plant or records;
    - ii. documents pertaining to an estate or interest in minerals, gas and oil, or other hydrocarbon substances;
    - iii. documents pertaining to water rights, claims or title to water;
    - iv. documents recorded or indexed outside the chain of title, whether or not the documents impart constructive notice to purchasers of the SUBJECT PROPERTY for value and without knowledge;
    - v. documents, where records are indexed pursuant to a tract system (whether by computer or otherwise) and which are not actually entered against the SUBJECT PROPERTY, whether or not the documents impart constructive notice to Purchasers of the SUBJECT PROPERTY for value and without knowledge; or
    - vi. documents, where records are indexed pursuant to a grantor-grantee index (whether by computer or otherwise) and which are not found due to variations in the names of the subject parties by reason of misspelling, usage or otherwise, whether or not the documents impart constructive notice to Purchasers of the SUBJECT PROPERTY for value and without knowledge;
  - f. LAND RECORDS - Those records in which under state statutes the DESIGNATED DOCUMENTS must be recorded in order to impart constructive notice to purchasers of the SUBJECT PROPERTY for value and without knowledge;
  - g. SUBJECT PROPERTY - The real property described in the Application, but not including any severed mineral estate.
  
2. The SUBJECT PROPERTY is described as follows:  
\_\_\_\_\_



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3. DESIGNATED DOCUMENTS, as defined in subparagraph 1.d., above, which are recorded in the LAND RECORDS, \_\_\_\_ County, State of New York from \_\_\_\_ through.
- a.  Deeds;
  - b.  Leases and Subleases;
  - c.  Mortgages, Assignments and Modification of Mortgages;
  - d.  Environmental Protection Liens recorded in the LAND RECORDS pursuant to CERCLA; and
  - e.  All of the documents listed in paragraph 3.
4. Applicant specifically instructs the COMPANY to disclose in the Certificate only the DESIGNATED DOCUMENTS indicated above. Applicant understands that during the course of searching the records requested by the Applicant the Company may find or have knowledge of documents of a type other than the DESIGNATED DOCUMENTS requested by Applicant. Even if the COMPANY knows or would have reason to know Applicant may have an interest in these other documents, Applicant imposes no duty or responsibility on the COMPANY to disclose those documents or their content to Applicant either through the CERTIFICATE or otherwise.
5. BY THE EXECUTION AND SUBMISSION OF THIS APPLICATION TO THE COMPANY, APPLICANT ACKNOWLEDGES AND SUBMITS:
- a. that the COMPANY'S sole obligation under the CERTIFICATE, and this Application, shall be to conduct a search in accordance with the terms and provision of this Application and to furnish copies of the DESIGNATED DOCUMENTS to Applicant as a part of the CERTIFICATE. The COMPANY shall have no obligation to read, examine, or interpret the DESIGNATED DOCUMENTS;
  - b. that the COMPANY shall not be obligated under this CERTIFICATE to pay any costs, attorneys' fee, or expenses incurred in any action, proceeding, or other claim brought against Applicant;
  - c. that the CERTIFICATE is limited in scope and is not an abstract of title, title opinion, preliminary binder or title report, or commitment to issue title insurance;
  - d. that the CERTIFICATE is not to be relied upon by Applicant or any other person as a representation of the status of title to the SUBJECT PROPERTY;
  - e. that Applicant shall have no right of action against the COMPANY, whether or not based on negligence, except under the terms and provisions of, and subject to all limitations of this Application and the CERTIFICATE;
  - f. that the CERTIFICATE shall not be valid and the COMPANY shall have no liability thereunder unless this Application, or a copy thereof, is attached thereto; and
  - g. that the CERTIFICATE does not assure that Applicant will be entitled to any innocent landowner, lender, purchaser or lessee defenses which may be available under CERCLA.



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## LIMITATION OF LIABILITY

APPLICANT RECOGNIZES THAT IT IS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO DETERMINE THE EXTENT OF DAMAGES WHICH COULD ARISE FROM ERRORS OR OMISSIONS IN THE CERTIFICATE. APPLICANT RECOGNIZES THAT THE FEE CHARGED IS NOMINAL IN RELATION TO THE POTENTIAL LIABILITIES PURSUANT TO CERCLA. THEREFORE, APPLICANT UNDERSTANDS THAT THE COMPANY IS NOT WILLING TO PROCEED IN THE PREPARATION AND ISSUANCE OF THE REQUESTED CERTIFICATE UNLESS THE COMPANY'S LIABILITY IS STRICTLY LIMITED. APPLICANT AGREES WITH THE PROPRIETY OF THIS LIMITATION AND AGREES TO BE BOUND BY ITS TERMS.

THIS LIMITATION IS AS FOLLOWS:

APPLICANT AGREES, AS A PART OF THE CONSIDERATION FOR THE ISSUANCE OF THE CERTIFICATE, THAT THE COMPANY SHALL BE LIABLE TO APPLICANT UNDER THIS CERTIFICATE ONLY IN THE EVENT THAT ENVIRONMENTAL HAZARDOUS WASTE OR TOXIC SUBSTANCE CLEAN-UP COSTS OR PENALTIES ARE ACTUALLY IMPOSED ON APPLICANT, OR AGAINST THE SUBJECT PROPERTY, SOLELY BY REASON OF AN ERROR OR OMISSION BY THE COMPANY IN FAILING TO IDENTIFY AND ATTACH THE DESIGNATED DOCUMENTS TO THE CERTIFICATE, WHICH ERROR OR OMISSION BY THE COMPANY HAS CAUSED APPLICANT TO FAIL TO COMPLY WITH THE REQUIREMENTS FOR DUE DILIGENCE INQUIRY OF PRIOR OWNERSHIPS AND USES IN CONNECTION WITH THE INNOCENT LANDOWNER, LENDER, PURCHASER OR LESSEE DEFENSES UNDER CERCLA; AND THEN THE LIABILITY SHALL BE A ONE TIME PAYMENT TO APPLICANT OF NO MORE THAN \$25,000.00.

ACCORDINGLY, APPLICANT AGREES THAT THE CERTIFICATE WILL BE ISSUED WITH THIS LIMITATION AS A PART OF THE CONSIDERATION THAT THE APPLICANT GIVES THE COMPANY TO PREPARE AND ISSUE THE CERTIFICATE.

APPLICANT CERTIFIES THAT HE HAS READ AND UNDERSTANDS ALL OF THE TERMS, LIMITATIONS AND CONDITIONS OF THIS APPLICATION.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Applicant

(This application must be signed by the Applicant itself or an attorney at law representing the Applicant.)



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## RECORDED DOCUMENT CERTIFICATE

Certificate Number: \_\_\_\_\_

TOTAL LIABILITY HEREWITH IS LIMITED TO \$25,000.00.

Based on a search of the LAND RECORDS for the DESIGNATED DOCUMENTS set forth in paragraph 3 of the Application executed by the Applicant on the \_\_\_\_ day of \_\_\_\_, 19 \_\_\_\_, which Application, or a copy thereof, is attached hereto and made a part hereof, the undersigned BLANK TITLE INSURANCE COMPANY, the COMPANY, hereby certifies to \_\_\_\_, the Applicant, that the following identified and attached documents constitute all of the DESIGNATED DOCUMENTS requested in the Application.

### DESIGNATED DOCUMENTS:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

This certification provided by this CERTIFICATE is not valid and the COMPANY shall have no liability hereunder unless there is attached hereto the Application, or a copy thereof, executed the \_\_\_\_ day of \_\_\_\_, 20 \_\_\_\_.

This CERTIFICATE executed this \_\_\_\_ day of \_\_\_\_, 20 \_\_\_\_.

**Fidelity National Title Insurance Company**



BY

*[Signature]*

President

ATTEST

*[Signature]*

Secretary