



**Fidelity National Title**  
Insurance Company

**Policy Number: 00961003**

**Issued by  
Fidelity National Title Insurance  
Company**

**OWNERS POLICY OF TITLE INSURANCE**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

**COVERED RISKS**

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS, **Fidelity National Title Insurance Company, a California corporation** ("Company"), insures, as of Date of Policy and, to the extent stated in Covered Risks 9, and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
  - (a) A defect in the Title caused by
    - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
    - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
    - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
    - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
    - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
    - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
    - (vii) a defective judicial or administrative proceeding.
  - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
  - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (a) the occupancy, use, or enjoyment of the Land;
  - (b) the character, dimensions, or location of any improvement erected on the Land;
  - (c) the subdivision of land; or
  - (d) environmental protectionif a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective
  - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
  - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
    - (i) to be timely, or
    - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

**37-UP-2010**  
**2nd: 11/15/10**

**Fidelity National Title Insurance Company**

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10; or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

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**CONDITIONS****1. DEFINITION OF TERMS**

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 11 and 12 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The Insured named in Schedule A. (i) The term "Insured" also includes (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin; (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization; (C) successors to an Insured by its conversion to another kind of Entity; (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured, (2) if the grantee wholly owns the named Insured, (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes. (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
- (e) "Insured Claimant": An Insured claiming loss or damage.
- (f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title. (g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.
- (j) "Title": The estate or interest described in Schedule A.
- (k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

**2. CONTINUATION OF INSURANCE**

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

**3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT**

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

**4. PROOF OF LOSS**

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

**5. DEFENSE AND PROSECUTION OF ACTIONS**

- (a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to

the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently. Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

**6. DUTY OF INSURED CLAIMANT TO COOPERATE**

- (a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.
- (b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

**7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY**

In case of a claim under this policy, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Insurance.  
To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay. Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.
- (b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant. (i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or (ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.  
Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under



**CONDITIONS**

this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

**8. DETERMINATION AND EXTENT OF LIABILITY**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

- (a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of (i) the Amount of Insurance; or (ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.
- (b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured, (i) the Amount of Insurance shall be increased by 10%, and (ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.
- (c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

**9. LIMITATION OF LIABILITY**

- (a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.
- (b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.
- (c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

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

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

**11. LIABILITY NONCUMULATIVE**

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

**12. PAYMENT OF LOSS**

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

**13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT**

- (a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

- (b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

**14. ARBITRATION**

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the

transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

**15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

- (a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
- (b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.
- (c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.
- (d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

**16. SEVERABILITY**

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

**17. CHOICE OF LAW; FORUM**

- (a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefore in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.
- (b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

**18. NOTICES, WHERE SENT**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Consumer Affairs Department, P.O. Box 45023, Jacksonville, Florida 32232-5023.

**Fidelity National Title Insurance Company**

Scottsdale Quarter Fee Purchase - OP

Date Issued: September 16, 2010

Policy No.: 009610030

**OWNER'S POLICY  
SCHEDULE "A"**

Effective Date: September 10, 2010 @ 12:08 p.m.

Amount: \$96,000,000.00

1. Name of Insured:

SDQ Fee, LLC, a Delaware limited liability company

2. The estate or interest in the land described or referred to in this Policy and covered herein is **Fee Simple**.

3. Title to the fee simple estate or interest in the land described or referred to in this Policy is at the effective date hereof vested in the insured by virtue of that certain Special Warranty Deed from Sucia Scottsdale, LLC, a Delaware limited liability company to SDQ Fee, LLC, a Delaware limited liability company, dated September 9, 2010 and recorded September 10, 2010 as Instrument No. 20100783474, in the records of Maricopa County, Arizona.

4. The land referred to in this Policy is situated in the County of Maricopa, State of Arizona, and described as follows:

SEE EXHIBIT "A" LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

**Fidelity National Title Insurance Company**



**Authorized Signatory**

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2nd: 11/15/10



**Fidelity National Title Insurance Company**

Scottsdale Quarter Fee Purchase - OP

**Date Issued: September 16, 2010**

**Policy No.: 009610030**

**OWNER'S POLICY  
SCHEDULE "B", Exceptions**

This policy does not insure against loss or damage and the Company will not pay costs, attorney's fees or expenses which arise by reason of the following exceptions:

The policy, when issued will contain the following endorsements attached hereto and then the endorsements may contain the policy/commitment number.

A. This item intentionally deleted.

1. RESERVATIONS contained in the Patent from the United States of America, recorded in Book 118 of Deeds, Page 551, reading as follows: SUBJECT to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States of America. (That portion of said land lying within Section 11)
2. RESERVATIONS contained in the Patent from the State of Arizona recorded in Docket 15232, Page 462, reading as follows:  
This Patent is issued subject to any and all easements or rights of way heretofore legally obtained and now in full force and effect.
3. WATER RIGHTS, claims or title to water, and agreements, covenants, conditions or rights incident thereto, whether or not shown by the public records. This exception is not limited by reason of the disclosure of any matter relating to Water Rights as may be set forth elsewhere in Schedule B.

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Scottsdale Quarter (Kierland Crossing)--fee ownership w rec info.wpdSeptember 16, 2010 (11:10am)

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**Fidelity National Title Insurance Company**

Scottsdale Quarter Fee Purchase - OP

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**OWNER'S POLICY  
SCHEDULE "B", Exceptions, Continued...**

4. The right of the State of Arizona, its lessees or permittees to enter upon said land for the purpose of exploration, development and removal of the following described substances as provided by the rules and regulations of the State Land department and the Laws of Arizona, as reserved in Patent recorded in Docket 15232, Page 462:

One sixteenth (1/16) of all oil, gas, other hydrocarbon substances, helium or other substances of a gaseous nature, coal, metals, minerals, fossils, fertilizer of every name and description, together with all uranium, thorium, or any other material which is or may be determined by the laws of the United States, or of this state, or decisions of court, to be peculiarly essential to the production of fissionable materials, whether or not of commercial value, and the exclusive right thereto, on, in, or under said land. (That portion of said land lying within Section 2)

5. TAXES AND ASSESSMENTS collectible by the County Treasurer, a lien not yet due and payable for the following year: 2010.

The following is included for informational purposes only:

Year	2009
Parcel No.	215-44-069
Total Tax	\$303.02
First Half	Paid
Second Half	Paid

Year	2009
Parcel No.	215-44-056G
Total Tax	\$340,656.46
First Half	Paid
Second Half	Paid

6. Easement and rights incident thereto, as set forth in Underground Utility Easement by and between Armour and Company, a Delaware corporation, and Arizona Public Service Company, an Arizona corporation, dated July 30, 1974  
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**OWNER'S POLICY  
SCHEDULE "B", Exceptions, Continued...**

6. Continued...

and recorded August 8, 1974 in Docket 10775, Page 626, in the records of Maricopa County, Arizona, for the purpose of underground utilities.

7. Easement and rights incident thereto, as set forth in Utility Easement by and between Armour and Company, a Delaware corporation, and Arizona Public Service Company, an Arizona corporation, dated May 20, 1976 and recorded June 25, 1976, in Docket 11736, Page 1087, in the records of Maricopa County, Arizona, for the purpose of electric lines.
8. Easement and rights incident thereto, as set forth Down Guy and Anchor Easement by and between Armour and Company, a Arizona corporation, and Arizona Public Service Company, an Arizona corporation, dated July 30, 1986 and recorded August 21, 1986 in Document No. 86-445536, in the records of Maricopa County, Arizona, for the purpose of down guy and anchor.
9. Easement and rights incident thereto, as set forth in Utility Easement by and between Armour and Company, a Arizona corporation, and Arizona Public Service Company, an Arizona corporation, recorded January 26, 1988 in Document No. 88-35974, in the records of Maricopa County, Arizona, for the purpose of down guy.
10. Easement and rights incident thereto, as set forth in Resolution by The City of Scottsdale, Arizona, dated July 19, 1988 and recorded July 26, 1988 in Document No. 88-366346, and Resolution by The City of Scottsdale, Arizona, dated July 19, 1988 and re-recorded August 3, 1988 in Document No. 88-383623, and Resolution by The City of Scottsdale, Arizona, dated July 19, 1988 and re-recorded August 8, 1988 in Document No. 88-390717, for the purpose of public utilities, and as partially released by Release of Easement Subdivision or Map of Dedication by the City Scottsdale, dated September 3, 2008 and recorded April 28, 2009 as Document No. 20090375918, all in the records of Maricopa County, Arizona.

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Scottsdale Quarter (Kierland Crossing)--fee ownership w rec info.wpdSeptember 16, 2010 (11:10am)

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**OWNER'S POLICY  
SCHEDULE "B", Exceptions, Continued...**

11. Easement and rights incident thereto, as set forth in Underground Utility Easement by and between Armour and Company - Greendale Associates Joint Venture, a partnership comprised of The Dial Corp., successor in interest to Armour and Company, a Delaware corporation, and Arizona Public Service Company, an Arizona corporation, dated June 22, 1995 and recorded July 10, 1995 in Document No. 95-0398073, in the records of Maricopa County, Arizona, for the purpose of electric lines.
12. Agreement according to the terms and conditions contained in The Dial Corporation 73<sup>rd</sup> Street and Greenway-Hayden Loop Development Agreement by and between The City of Scottsdale, Arizona, an Arizona municipal corporation, Ryan Companies US, Inc., a Minnesota corporation, and The Dial Corporation, a Delaware corporation, dated June 30, 1997 and recorded July 14, 1997 as Document No. 97-473356, in the records of Maricopa County, Arizona, for the purpose of Development Agreement.
13. This item intentionally deleted.
14. Matters shown on Survey recorded in Book 922 of Maps, Page 22.
15. This item intentionally deleted.
16. Waiver of Right to Make a Claim Under Proposition 207 by Sucia Scottsdale, LLC, a Delaware limited liability company, dated July 9, 2007 and recorded September 24, 2007 in Document No. 20071052122, Waiver of Right to Make a Claim Under Proposition 207, dated July 14, 2008 and recorded August 7, 2008 as Document No. 20080690927, and Waiver of Right to Make a Claim Under Proposition 207, dated July 14, 2008 and recorded August 8, 2008 as Document No. 20080692039, in the records of Maricopa County, Arizona.

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SCHEDULE "B", Exceptions, Continued...**

17. Temporary Easement Agreement for Construction Staging by and between Kierland Crossing Residential, LLC, an Arizona limited liability company, Kierland Crossing Residential II, LLC, an Arizona limited liability company, Kierland Crossing Residential III, LLC, an Arizona limited liability company and Kierland Crossing, LLC, a Delaware limited liability company, dated November 26, 2007 and recorded February 5, 2008, as Document No. 20080099584, in the records of Maricopa County, Arizona.
18. Memorandum of Joint Development Agreement by and between Kierland Crossing Residential, LLC, an Arizona limited liability company, Kierland Crossing Residential II, LLC, an Arizona limited liability company, Kierland Crossing Residential III, LLC, an Arizona limited liability company and Kierland Crossing, LLC, a Delaware limited liability company, dated November 26, 2007 and recorded February 5, 2008, as Document No. 20080099585, in the records of Maricopa County, Arizona.
19. City of Scottsdale Water Line Easement by Sucia Scottsdale, LLC, a Delaware limited liability company, to City of Scottsdale, Arizona, a municipal corporation, dated October 1, 2007 and recorded January 29, 2008 as Document No. 20080080015, in the records of Maricopa County, Arizona.
20. Grant of Easement by and between Sucia Scottsdale, LLC, a Delaware limited liability company and Southwest Gas Corporation, a California corporation, dated August 13, 2008 and recorded August 22, 2008 as Document No. 20080734095, all in the records of Maricopa County, Arizona.
21. Easement Agreement from Sucia Scottsdale, LLC, a Delaware limited liability company to Qwest Corporation, a Colorado corporation, recorded September 25, 2008 as Document No. 2008-0829713, in the records of Maricopa County, Arizona.

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SCHEDULE "B", Exceptions, Continued...**

22. Utility Easement from Sucia Scottsdale, LLC, a Delaware limited liability company to Arizona Public Service Company, an Arizona corporation, dated November 25, 2008 and recorded December 15, 2008 as Document No. 20081056168, in the records of Maricopa County, Arizona.
23. Easements as shown on that certain plat entitled "Map of Dedication for Scottsdale Quarter" recorded in Book 1020 of Maps, Page 26, as corrected by Affidavit of Correction, recorded April 15, 2010 as Document No. 20100316769, both in the records of Maricopa County, Arizona.
24. Easement for public utilities and rights incident thereto, as set forth in that certain instrument recorded in Document No. 2009-0272182, in the records of Maricopa County, Arizona.
25. Matters as disclosed by that certain Record of Survey, recorded January 6, 2010, in Book 1045 of Maps, Page 28, in the records of Maricopa County, Arizona.
26. This item intentionally deleted.
27. First Amended and Restated Ground Lease, as disclosed by that certain Memorandum of Lease by and between Sucia Scottsdale, LLC, a Delaware limited liability company, and Kierland Crossing, LLC, a Delaware limited liability company, dated December 6, 2006 and recorded December 11, 2006 as Document No. 20061613859, amended by that certain Second Amendment to First Amended and Restated Ground Lease, by and between SDQ Fee, LLC, a Delaware limited liability company, and Kierland Crossing, LLC, a Delaware limited liability company, and Assignment and Assumption Agreement by and between Sucia Scottsdale, LLC, a Delaware limited liability company and SDQ Fee, LLC, a Delaware limited liability company, dated September 9, 2010 and recorded September 10, 2010 as Instrument No. 20100783475, in the records of

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SCHEDULE "B", Exceptions, Continued...**

**Leases and other Leasehold Interest Instruments:**

27. Continued...

Maricopa County, Arizona, as disclosed by that certain Subordination, Non-Disturbance and Attornment Agreement by and between German American Capital Corporation, a Maryland corporation and Kierland Crossing, LLC, a Delaware limited liability company, dated September 9, 2010 and recorded September 20, 2010 as Instrument No. 20100811011, all in the records of Maricopa County, Arizona.

28. Right of First Refusal to Purchase Leasehold Interest by and between Sucia Scottsdale, LLC a Delaware limited liability company and Kierland Crossing, LLC, a Delaware limited liability company, with an effective date as of May 12, 2006 and recorded December 11, 2006 as Document No. 20061613861, in the records of Maricopa County, Arizona.

29. Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, by Kierland Crossing, LLC, a Delaware limited liability company, in favor of KeyBank National Association, as Administrative Agent, dated November 30, 2007 and recorded February 11, 2008 as Document No. 20080115325, in the records of Maricopa County, Arizona, in the original principal amount of \$220,000,000.00. (Affects Leasehold Interest)

30. Assignment of Leases and Rents by Kierland Crossing, LLC, a Delaware limited liability company, in favor of KeyBank National Association, as Administrative Agent, dated November 30, 2007 and recorded February 11, 2008 as Document No. 20080115326, in the records of Maricopa County, Arizona. (Affects Leasehold Interest)

31. This item intentionally deleted.  
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**OWNER'S POLICY  
SCHEDULE "B", Exceptions, Continued...**

**Leases and other Leasehold Interest Instruments, Continued...:**

32. Reciprocal Easement and Operating Agreement by and between Kierland Crossing Residential, LLC, an Arizona limited liability company, Kierland Crossing Residential II, LLC, an Arizona limited liability company, Kierland Crossing Residential III, LLC, an Arizona limited liability company and Kierland Crossing, LLC, a Delaware limited liability company, dated November 26, 2007 and recorded February 5, 2008, as Document No. 20080099586, as amended by Amendment No. 1 to Reciprocal Easement and Operating Agreement by and between Kierland Crossing Residential, LLC, an Arizona limited liability company, Kierland Crossing Residential II, LLC, an Arizona limited liability company, Kierland Crossing Residential III, LLC, an Arizona limited liability company and Kierland Crossing, LLC, a Delaware limited liability company, dated March 27, 2008 and recorded April 16, 2008 as Document 20080334982, both in the records of Maricopa County, Arizona.

**Notice of Commencements, Mechanic's Liens and other Lien Instruments:**

33. Notice and Claim of Lien for Labor, Services, Material, Machinery Fixtures and/or Tools by Fairbanks Contracting & Development, LLC, against Sucia Scottsdale, LLC, and Scottsdale OG, Inc., dated February 18, 2010 and recorded February 19, 2010 as Document No. 20100138493, for the amount \$348,944.93, plus costs and interest, and as affected by that certain Notice of Lis Pendens Case No. CV2010-095491 by Fairbank's Contracting & Development, LLC, an Arizona limited liability company, vs. Sucia Scottsdale, LLC, a Delaware limited liability company, recorded August 12, 2010 as Document No. 2010-0690345, both in the records of Maricopa County, Arizona. (Oakville Grocery)

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SCHEDULE "B", Exceptions, Continued...**

**Notice of Commencements, Mechanic's Liens and other Lien Instruments, Continued...**

34. Notice and Claim of Mechanic's and Materialman's Lien by Farnsworth Wholes Scottsdale LLC, against Sucia Scottsdale, LLC, a Delaware limited liability company, dated February 10, 2010 and recorded February 23, 2010 as Document No. 20100149796, in the records of Maricopa County, Arizona, in the amount of \$24,49084, plus costs and interest.
35. Notice and Claim of Mechanic's and Materialman's Lien by Rick the Plumber Inc., against Sucia Scottsdale, LLC, a Delaware limited liability company, dated February 22, 2010 and recorded February 23, 2010 as Document No. 20100149797, in the records of Maricopa County, Arizona, in the amount of \$44,600.00, plus costs and interest.
36. Notice and Claim of Mechanic's, Professional Services, Materialman's Lien by Industrial Refrigeration & Boiler Co, against Oakville Grocery, Kierland Crossing, LLC, a Delaware limited liability company, Scottsdale OG Inc., and Sucia Scottsdale, LLC, a Delaware limited liability company; dated March 3, 2010 and recorded March 4, 2010 as Document No. 20100184279, in the records of Maricopa County, Arizona, for the amount \$56,924.44, plus costs and interest. (Oakville Grocery)
37. Notice and Claim of Lien for Labor, Services, Material, Machinery Fixtures and/or Tools by Statewide Electric, against Sucia Scottsdale, LLC, a Delaware limited liability company, and Oakville Grocery, dated March 10, 2010 and recorded March 12, 2010 as Document No. 20100209015, in the records of Maricopa County, Arizona, for the amount \$87,503.52, plus costs and interest. (Oakville Grocery)

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SCHEDULE "B", Exceptions, Continued...**

**Notice of Commencements, Mechanic's Liens and other Lien Instruments,  
Continued...:**

38. Notice & Claim of Mechanic's and Materialman's Lien by Partitions and Accessories Company vs. Fairbanks Contracting & Development (original contractor) and Sucia Scottsdale, LLC, a Delaware limited liability company, dated March 25, 2010, and recorded April 2, 2010 as Document No. 20100278937, in the records of Maricopa County, Arizona, for the amount \$4,143.00, plus costs and interest.
39. Notice and Claim of Lien for Labor, Services, Material, Machinery Fixtures and/or Tools by To The Max Airmax Cooling & Heating, against Sucia Scottsdale, LLC, a Delaware limited liability company, dated April 1, 2010 and recorded April 8, 2010 as Document No. 20100294239, in the records of Maricopa County, Arizona, for the amount \$87,503.52, plus costs and interest.
40. Notice and Claim of Mechanic's and Materialman's Lien by W.D. Drywall, against Sucia Scottsdale, LLC, a Delaware limited liability company, dated June 8, 2010 and recorded June 22, 2010 as Document No. 2010-0501637, in the records of Maricopa County, Arizona, for the amount \$31,561.65, plus costs and interest.
41. Arizona - Notice and Claim of Mechanic's, Materialmen's, or Professional Services Lien - A.R.S. 33-993 by Steeler, Inc., against Sucia Scottsdale, LLC, a Delaware limited liability company, dated June 21, 2010 and recorded June 22, 2010 as Document No. 20100525839, in the records of Maricopa County, Arizona, for the amount \$5,596.50, plus costs and interest.

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SCHEDULE "B", Exceptions, Continued...**

**Notice of Commencements, Mechanic's Liens and other Lien Instruments,  
Continued...:**

42. Notice and Claim of Lien for Labor, Services, Material, Machinery Fixtures and/or Tools by Hajoca Corp. against Sucia Scottsdale, LLC, a Delaware limited liability company, dated July 27, 2010 and recorded July 29, 2010 as Document No. 20100645865, in the records of Maricopa County, Arizona, for the amount \$12,785.54, plus costs and interest.
43. Mechanic's and Materialmen's Lien by Brown Wholesale Electric, a division of Wesco Distribution, Inc., a Delaware corporation, against Sucia Scottsdale, LLC, a Delaware limited liability company, dated July 26, 2010 and recorded July 29, 2010 as Document No. 20100646016, in the records of Maricopa County, Arizona, for the amount \$18,636.30, plus costs and interest.
44. Notice and Claim of Mechanic's and Materialmen's Lien by Mechanical Products Southwest Inc. against Sucia Scottsdale, LLC, a Delaware limited liability company, dated July 28, 2010 and recorded August 2, 2010 as Document No. 20100657840, in the records of Maricopa County, Arizona, for the amount \$7,589.00, plus costs and interest.
45. Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing from SDQ Fee, LLC, a Delaware limited liability company, in favor of German American Capital Corporation, a Maryland corporation, dated September 9, 2010 and recorded September 10, 2010 as Instrument No. 20100783476, in the records of Maricopa County, Arizona, in the original principal amount \$70,000,000.00.
46. Assignment of Rents and Leases from SDQ Fee, LLC, a Delaware limited liability company, in favor of German American Capital Corporation, a Maryland corporation, dated September 9, 2010 and recorded September 10, 2010 as Instrument No. 20100783477, in the records of Maricopa County, Arizona.

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**OWNER'S POLICY  
SCHEDULE "B", Exceptions, Continued...**

47. UCC-1 Financing Statement SDQ Fee, LLC, a Delaware limited liability company, in favor of German American Capital Corporation, a Maryland corporation, recorded September 20, 2010 as Instrument No. 20100811010, in the records of Maricopa County, Arizona.

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**OWNER'S POLICY  
EXHIBIT "A", LEGAL DESCRIPTION**

A portion of the Northwest quarter of Section 11 and the Southwest quarter of Section 2, Township 3 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being described as follows:

COMMENCING at a City of Scottsdale brass cap found at the monumented intersection of 73rd Street and Butherus Road, as recorded in Thunderbird Industrial Airpark No. 3-A, in Book 160 of maps, page 8, records of Maricopa County, Arizona, from which a City of Scottsdale brass cap in a handhole found at the monumented intersection of Butherus Road and Scottsdale Road, as shown on said Thunderbird Industrial Airpark No. 3-A, bears North 88 degrees 51 minutes 18 seconds West, 1,054.98 feet; Thence along the monumented centerline of Butherus Road, North 88 degrees 51 minutes 18 seconds West, 370.07 feet; thence North 01 degree 08 minutes 42 seconds east 50.00 feet to a point on a line 50.00 feet North of and parallel with said centerline of Butherus Road and the TRUE POINT OF BEGINNING;

Thence along said parallel line, north 88 degrees 51 minutes 18 seconds West, 594.92 feet to a point of curvature having a radius of 25.00 feet;

Thence Northwesterly, 39.26 feet along the arc of said curve concave to the Northeast, through a central angle of 89 degrees 59 minutes 18 seconds to a point on a line 65.00 feet East of and parallel with the monumented centerline of Scottsdale Road;

Thence along last said parallel line, North 01 degrees 08 minutes 00 seconds East, 941.49 feet to a point of curvature having a radius of 20.00 feet;

Thence Northeasterly, 30.95 feet along the arc of said curve concave to the Southeast, through a central angle of 88 degrees 40 minutes 15 seconds, to a point of reverse curvature having a radius of 2,065.00 feet, also being 65.00 feet South of and parallel with the monumented centerline of Greenway-Hayden Loop as shown on the Scottsdale Research park Map of Dedication, recorded as Book 259 of Maps, page 38, and Affidavit Document No. 88-0350648, records of Maricopa County, Arizona;

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EXHIBIT "A", LEGAL DESCRIPTION, Continued...**

Thence along last said parallel curve, Easterly, 591.35 feet along the arc of said curve concave to the North, through a central angle of 16 degrees 24 minutes 28 seconds;

Thence South 16 degrees 36 minutes 13 seconds east, 40.25 feet to a point of curvature having a radius of 150.00 feet;

Thence Southerly, 46.47 feet along said curve concave to the west through a central angle of 17 degrees 44 minutes 55 seconds;

Thence South 01 degrees 08 minutes 42 seconds West, 1000.15 feet to the TRUE POINT OF BEGINNING.

**EXCEPT** that portion of land dedicated as right of way as shown on the map of Dedication for Scottsdale Quarter, recorded February 4, 2009 in Book 1020 of Maps, Page 26, and Certificate of Correction, recorded in Document No. 2010-0316769, in the records of Maricopa County, Arizona.

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