

### **THIRD REVISED MUTUAL INDEMNIFICATION AGREEMENT**

In order to expedite the closing of real estate transactions, facilitate the meeting of potential outstanding policy obligations and limit the need to obtain individual letters of indemnity, the companies that now or hereafter become signatories to this Third Revised Mutual Indemnification Agreement ("Agreement"), in consideration of their mutual promises and the performance hereunder, do hereby agree with one another, as follows:

#### **INDEMNITY:**

Each party to this Agreement (an "Indemnitor"), subject to the terms and conditions of this Agreement, agrees to indemnify any current or future party to this Agreement (an "Indemnitee") against loss or damage which may be suffered under an Indemnitee's owner's or loan title insurance policy(ies) (the "Indemnitee's Policy"), provided:

1. The loss or damage arose by reason of one or more of those "POTENTIAL DEFECTS" described below;
2. It reasonably appears that the Indemnitor issued a loan or owner's title policy (including but not limited to a Form A policy) insuring the transferor or mortgagor of the Land in the current transaction (the "Indemnitor's Policy");
3. The Indemnitor's Policy covers some or all of the land insured under the Indemnitee's Policy (the "Land");
4. The Indemnitor's Policy was issued without exception for the POTENTIAL DEFECT as to the portion of the Land affected by the POTENTIAL DEFECT; and
5. The Indemnitee's Policy insures the transferee or mortgagee of the Insured under the Indemnitor's Policy;

It is understood and agreed that once the relationship of Indemnitor and Indemnitee is established hereunder, it shall continue in force so long as the Indemnitee has liability under Indemnitee's Policy or under any indemnity (whether under this Agreement or a specific indemnity agreement) to subsequent insurers for a POTENTIAL DEFECT covered by the Indemnitor's Policy, subject to the limitations of this Agreement.

#### **POTENTIAL DEFECTS:**

- I. Doubt as to whether the spouse of a prior grantor has a homestead interest in the Land, as set forth in Section A below; or
- II. Doubt as to whether a recorded judgment, federal tax lien or state tax lien or warrant constitutes an unsatisfied lien against the Land, as set forth in Section B below; or
- III. Doubt as to whether a recorded mortgage has been satisfied or released as a lien against the Land, as set forth in Section C below; or
- IV. Doubt as to whether due process was afforded to certain defendants in court cases involving probate, foreclosure, quiet title or other proceedings, as set forth under Section D below; or
- V. Doubt as to whether a trustee or attorney-in-fact or purported representative of a legal entity had the requisite authority to convey or mortgage title to the Land to a bona fide 3rd party purchaser for value, as set forth in Section E below; or

- VI. Doubt as to whether an individual in the chain of title, who did not convey his or her entire interest in the Land while alive, is deceased, as set forth in Section F below; or
- VII. Doubt as to whether there is a potential lien outstanding in favor of the state or federal government arising from the death of an individual in the chain of title, as set forth in Section G below; or
- VIII. Possible invalidity of any deed in the chain of title to the Land due to a lack of subscribing witnesses, as set forth in Section H below; or
- IX. Possible failure of any deed or mortgage in the chain of title to the Land to be accorded the protections and benefits of Section 695.01, Florida Statutes, otherwise known as the recording statute, due to an insufficient or incomplete (but not an absent) acknowledgment for one or more of the grantors or makers of the deed or mortgage, as set forth in Section I below; or
- X. Doubt as to the validity of any deed in the chain of title to the Land or the insured mortgage due to a lack of a corporate seal affixed thereon, as set forth in Section J below.

**Section A (Homestead):**

Item I, above, shall mean that a deed or mortgage, in the chain of title to the Land prior to the date of or insured by the Indemnitor's Policy, does not contain either:

- 1. Joinder by the spouse of the grantor or mortgagor; or
- 2. A statement in the deed or mortgage that the grantor or mortgagor is a single person; or
- 3. A statement in the deed or mortgage or other recorded instrument that the Land conveyed or encumbered by the deed or mortgage is not the homestead of the grantor or mortgagor.

**Section B (Judgments or Federal or State Tax Liens or Warrants):**

Item II, above, shall mean a recorded judgment lien(s), from the face of which it appears that the principal is a sum certain, or a recorded federal tax lien or state tax lien or warrant which may have attached to the Land prior to the date of the Indemnitor's Policy (the "Lien(s)"), provided:

- 1. The Lien(s) is not against the insured under the Indemnitor's Policy;
- 2. The face amount of the Lien(s) does not exceed (in the aggregate) \$500,000.00;
- 3. No notice of any proceedings or levy to collect the Lien(s) appears of record; and
- 4. The Lien(s) is not a child support certificate of delinquency filed pursuant to Section 61.14, Florida Statutes.

**Section C (Mortgages):**

Item III, above, shall mean a recorded mortgage(s) which appears of record prior to the date of Indemnitor's Policy, provided:

1. There appear no foreclosure proceedings respecting the mortgage;
2. The mortgage secures a principal amount of not more than \$500,000.00; and
3. The mortgage does not appear, from the record, to secure a revolving credit or equity line of credit loan.

**Section D (Due Process Issues Arising Out of Past Litigation):**

Item IV, above, shall apply only to court proceedings which predate the date of the Indemnitor's Policy and shall mean one or more of the following:

1. Failure to appoint a guardian or attorney *ad litem* to represent the interest of an absent defendant(s) in a probate, foreclosure, quiet title, partition suit, divorce or other proceeding that has ended in a final judgment affecting title to the Land (the "Case").
2. Deficiencies in, or the absence of, a diligent search affidavit filed in the Case prior to service upon defendant by publication as may be required by law.

**Section E (Authority to Sign - Business Entities, Trustees and Attorneys-In-Fact):**

Item V, above, shall mean a conveyance or mortgage of the Land prior to the date of or insured by the Indemnitor's Policy insuring the current seller or mortgagee of the Land, and there appears insufficient or no record notice that the conveyance or mortgage was made by one with proper authority, provided that there appears no notice of record in the county where the Land lies of any proceeding to attack or set aside the conveyance or mortgage.

**Section F (Lack of Recorded Death Certificate):**

Item VI, above, shall mean an original death certificate is not of record in the county in which the Land is located, in order to eliminate the interest of an individual in the prior chain of title or the homestead interest of a spouse of an individual prior to the date of the Indemnitor's Policy.

**Section G (Florida and Federal Estate Tax Liens):**

Item VII, above, shall mean that there is an absence of satisfactory proof of record in the county in which the Land is located that there are no estate tax liens in favor of the State of Florida or the United States of America which have attached or could have attached to the insured Land due to death of a party prior to the date of the Indemnitor's Policy.

**Section H (Lack of Subscribing Witnesses):**

Item VIII, above, shall mean that any deed to the Land that appears recorded on or before the date of the Indemnitor's Policy does not contain two subscribing witnesses for each grantor.

**Section I (Incomplete or Insufficient Acknowledgments):**

Item IX, above, shall mean that the deed or mortgage affecting the chain of title to the Land contains a defective acknowledgment as to one or more parties. Defects covered by this Section include, but are

not limited to, one or more of the following:

1. The failure to include a notarial seal or stamp as required by Section 695.03, Florida Statutes;
2. The failure to affirmatively state that one or all of the parties executing appeared before the individual taking the acknowledgment;
3. The failure to include a translation into English of any portion of the acknowledgement that is in a language other than English;
4. The failure of the individual taking the acknowledgment to designate in the instrument whether one or more of the parties executing the instrument possessed a statutorily acceptable form of identification or, in the alternative, was personally known to the individual taking the acknowledgment;
5. The acknowledgment was taken by an individual not having the authority to acknowledge instruments to be recorded in the public records of counties in the State of Florida, as set forth in Section 695.03, Florida Statutes; or
6. The erroneous use of a jurat instead of the statutorily prescribed form of acknowledgment.

**Section J (Corporate Seals):**

Item X, above, shall mean the failure of the insured mortgage or a deed in the chain of title to the Land prior to the date of the Indemnitor's Policy to have been executed by a corporation without its corporate seal affixed.

**CONDITIONS:**

The indemnity provision of this Agreement is subject to the following conditions:

- A. The Agreement is only applicable to policies issued on Florida property;
- B. The Indemnitor's Policy is at least one (1) year old;
- C. The Indemnitee is not required to authenticate a policy of the Indemnitor that appears valid on its face; however, if requested by the Indemnitor, the Indemnitee shall be prepared to provide a copy of the policy on demand as a condition to making a claim under this Agreement.
- D. The liability of the Indemnitor is limited to the face amount and the terms of the Indemnitor's Policy or \$500,000.00, whichever is less;
- E. The Indemnitor shall be notified of a claim under this Agreement, at the address of its claims department, as if the Indemnitee is an insured claimant under the Indemnitor's Policy;
- F. For any claim being made under this Agreement, the Indemnitor agrees to perform in accordance with the terms hereof, promptly and in good faith; however, until an Indemnitor is notified of a claim hereunder, there is no obligation to take any action allowed or required under the Indemnitor's Policy;

- G. This Agreement may be supplemented or superseded by any specific written indemnity agreements by and between any of the parties hereto, and such specific agreement shall not be deemed to suspend, cancel or otherwise terminate any of the rights or obligations of the parties under this Agreement as to policies which may be written by the Indemnitee in the future; and
- H. Any signatory may withdraw from this Agreement upon written notice given to the Notice Agent identified below after thirty (30) days from the date of the mailing of such notice. Notice Agent shall promptly notify all parties of the withdrawal. However, such withdrawal shall not diminish or impair any of the indemnities arising under this Agreement prior to the expiration of such thirty (30) day period.

**SIGNATORIES AND EFFECTIVE DATE:**

This Agreement shall be open to participation by any title insurance company licensed or previously licensed to do business in the State of Florida. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and such counterparts shall together constitute but one agreement.

The Effective Date of this Agreement shall be November 3, 2011, as to any company that signs the Agreement. As to signatories as of the Effective Date, all policies, issued before or after the Effective Date, are deemed to be Indemnitor's Policies. Thereafter, a title insurance company who was not a signatory as of the Effective Date may join and become a party to the Agreement ("New Signatory"). A title insurer becomes a New Signatory by signing the Agreement and delivering the original signed counterpart to:

Executive Director  
Florida Land Title Association  
249 East Virginia Street  
Tallahassee, FL 32303

(the "Notice Agent")

Upon receipt of an original counterpart signature, the Notice Agent shall promptly send a copy thereof together with written notice to all Indemnitors advising each of the date Notice Agent received the signed counterpart original. Thereafter all policies of New Signatory, regardless of issue date, shall be deemed to be an Indemnitor's Policy under this Agreement.

By signing this Agreement each Indemnitor agrees that its receipt of the Notice sent by the Notice Agent shall be proof that this Agreement is in effect as to a New Signatory. Notice Agent shall retain in safekeeping the original and any original counterparts to this Agreement at the Florida Land Title Association headquarters in Tallahassee, Florida.

Nothing herein shall be construed to release any obligations which may have attached under any prior versions of this mutual indemnification agreement prior to the Effective Date of this Agreement, as to both the Indemnitor and Indemnitee, in each particular instance. Indemnity obligations arising after both the Indemnitor and Indemnitee have joined this Agreement shall be governed solely by this Agreement and not by any prior versions.

Various Indemnitors have acquired other title insurers, changed corporate names, merged entities, assumed policies by contract or reinsurance, and otherwise become responsible for policy obligations not issued in the name of the Indemnitor, yet desire to avail themselves of the benefits of this Agreement as to those policies. Accordingly, each Indemnitor agrees that this Agreement and its obligation to indemnify hereunder will apply as to any title insurance policy issued by any of the entities (if any) listed as to that Indemnitor on Schedule A as fully as if such policy had been issued directly by the Indemnitor.

NOW, WITH THE INTENT TO BE BOUND BY ALL THE TERMS AND PROVISIONS HEREOF, WITNESS the signature of the INDEMNITORS shown below:

INDEMNITORS:

Alliant National Title Insurance Company

By: \_\_\_\_\_  
Dave Ginger  
Its: President  
Date: November 2, 2011

Attorney's Title Insurance Fund, Inc.

By: \_\_\_\_\_  
Garland Thomas Smith  
Its: President & CEO  
Date: November 2, 2011

Chicago Title Insurance Company  
for itself and those entities listed on Schedule A

By: \_\_\_\_\_  
Patricia J. Hancock  
Its: Senior Vice President & State Underwriting Counsel  
Date: November 2, 2011

Commonwealth Land Title Insurance Company  
for itself and those entities listed on Schedule A

By: \_\_\_\_\_  
Patricia J. Hancock  
Its: Senior Vice President & State Underwriting Counsel  
Date: November 2, 2011

Fidelity National Title Insurance Company  
for itself and those entities listed on Schedule A

By: \_\_\_\_\_  
Patricia J. Hancock  
Its: Senior Vice President & State Underwriting Counsel  
Date: November 2, 2011

First American Title Insurance Company

By: \_\_\_\_\_  
Alan K. McCall  
Its: Vice President & Southeast Regional Underwriting Counsel  
Date: November 2, 2011

North American Title Insurance Company  
for itself and those entities listed on Schedule A

By: \_\_\_\_\_  
John A. Fries  
Its: Chief Underwriting Counsel  
Date: November 2, 2011

Old Republic National Title Insurance Company  
for itself and those entities listed on Schedule A

By: \_\_\_\_\_  
Scott Pierce  
Its: Senior Vice President & Southeast Regional Manager  
Date: November 2, 2011

Stewart Title Guaranty Company  
for itself and those entities listed on Schedule A

By: \_\_\_\_\_  
Barry Alan Scholnik  
Its: Vice President  
Date: November 2, 2011

Title Resources Guaranty Company

By: \_\_\_\_\_  
Linda M. Hernandez  
Its: Vice President & Florida State Underwriter  
Date: November 2, 2011

Westcor Land Title Insurance Company

By: \_\_\_\_\_  
Patricia W. Bower  
Its: General Counsel  
Date: November 2, 2011

WFG National Title Insurance Company

By: \_\_\_\_\_  
A. Roger Blauvelt  
Its: Vice President & Underwriting Counsel  
Date: November 2, 2011



**SCHEDULE A**  
**TO THIRD REVISED MUTUAL INDEMNIFICATION AGREEMENT**

Chicago Title Insurance Company includes:

American Pioneer Title Insurance Company  
Security Union Title Insurance Company  
Ticor Title Insurance Company  
Ticor Title Insurance Company of Florida

Commonwealth Land Title Insurance Company includes:

Industrial Valley Title Insurance Company  
Title and Trust Company of Florida  
Transnation Title Insurance Company

Fidelity National Title Insurance Company includes:

American Title Insurance Company  
City Title Guaranty Company  
City Title Insurance Company  
Fidelity National Title Insurance Company of New York  
Lawyers Title Insurance Corporation  
Life Title Insurance Company of New York  
Meridian Title Insurance Company  
National Attorney's Title Insurance Company  
Nations Title Insurance of New York, Inc.  
Nations Title, Inc.  
New York TRW Title Insurance  
New York TRW Title Insurance, Inc.  
Security Title and Guaranty Corporation  
Title USA Insurance Corporation of New York  
Title USA Insurance of New York, Inc.  
TRW Title Insurance  
TRW Title Insurance of New York, Inc.  
TRW Title, Inc.  
US Life Title Insurance Company of New York

North American Title Insurance Company includes:

North American Title Insurance Corporation

Old Republic National Title Insurance Company includes:

Minnesota Title Insurance Company

Stewart Title Guaranty Company includes:

Alliance Title of America