

**INDEMNITY AGREEMENT**

THIS INDEMNITY AGREEMENT, made by

\_\_\_\_\_, **Executor of the Estate of \_\_\_\_\_, deceased**  
(hereinafter collectively called Indemnitor) to STEWART TITLE GUARANTY COMPANY(hereinafter collectively called Company) on \_\_\_\_\_. Indemnitor is firmly bound to Company in the sums necessary to remove the liens of the Exception (hereinafter defined).

**WHEREAS**, Indemnitor has requested Company to issue its policy(s) of title insurance insuring an interest in or title to certain real estate in the \_\_\_\_ of \_\_\_\_\_, County of \_\_\_\_\_ and State of New Jersey described in Policy/Commitment No. \_\_\_\_\_ issued by Company and commonly known as \_\_\_\_\_ Tax lot \_\_\_\_\_, Block \_\_\_\_\_ (hereinafter the "Property") without exception to, or providing certain affirmative insurance against, the following matters (hereinafter referred to as the Exception):

**Any and all federal and New Jersey State estate or similar taxes due and owing by the Estate of \_\_\_\_\_, deceased or any heir or devisee thereunder; and**

**WHEREAS**, Company is unwilling to so issue such policy(s) unless indemnified by Indemnitor as hereinafter provided; and

**WHEREAS**, Indemnitor has, as an inducement to Company, offered to indemnify Company against loss or damage which Company may become liable for by reason of the omission or deletion of the Exception or by reason of providing the affirmative insurance set forth in said Policy or Commitment against loss, damage, cost or expense which may result from the matters referred to in the Exception, and

**WHEREAS**, Indemnitor recognizes that Company in the normal course of its business, may be called upon to issue additional Owner's or Loan policy(s) on all or part of said real estate in the future which will afford the same or similar protection,

**NOW, THEREFORE**, the condition of this obligation is such that Indemnitor, its heirs, administrators, executors, successors and assigns, or any of them, shall and do at all times hereafter well and sufficiently save, defend, keep harmless, and indemnify Company, its successors and assigns of and from all loss, damage, cost, charge, liability or expense, including court costs and attorneys fees, which it may sustain, suffer or be put to under its policy or policies of title insurance or otherwise on account of the omission or deletion of, or affirmative insurance in connection with, the Exception. In the event any a writ of execution is issued in connection with the Exception, the Indemnitor agrees to cause same to be paid and/or discharged of record without delay, or otherwise be disposed of to Company's satisfaction. In any event the Indemnitor agrees to have the Exception discharged of record or the Property released from the lien of the Exception no later than \_\_\_\_\_. Should the Indemnitor fail to so have the Exception so discharged of record or the Property released from the lien of the Exception by such date or upon the issuance of a writ of execution, then in either event, without further notice to the Indemnitor, the Company may use the security hereunder to obtain such discharge or release. At such time as the Exception is discharged of record or the Property released from the lien of the Exception, then this obligation shall be null and void, otherwise to remain in full force and effect.

**As security for the performance of the terms hereof Indemnitor hereby agrees not to fully distribute the assets of the estate until all federal and/or state estate and similar taxes owed by the estate or its heirs or devisees are paid and the estate (i) has received a "closing letter" (IRS Letter 627) from Internal Revenue Service stating all Federal estate liability has been paid and (ii) the estate has received and recorded a tax waiver from the State of New Jersey evidencing that all New Jersey inheritance and estate taxes (N.J. A.C. 18:26-3A.3 et seq.) have been paid. Indemnitor agrees to retain a minimum of \$ \_\_\_\_\_ in an estate account, held in trust by \_\_\_\_\_ Esq., until such taxes are paid and such proof is obtained and the waiver is recorded.**

The conditions, covenants and terms of this Indemnity Agreement are printed on the next page and incorporated herein by reference.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2005

Address:

Telephone:  
Tax I.D. # or SSN:

Indemnitor(s)  
By: \_\_\_\_\_  
\_\_\_\_\_, **Executor of the**  
**Estate of \_\_\_\_\_, deceased**

**THE CONDITIONS, COVENANTS, AND TERMS OF THE INDEMNITY AGREEMENT**

1. Indemnitor agrees that Company may, in its discretion, report to its proposed insured the existence of the matters set forth as the Exception and refuse to so issue such policy(s) of title insurance unless Company is furnished with satisfactory acknowledgment by the proposed insured that said proposed insured is aware of the existence of the matters set forth as the Exception. In no event shall this instrument be construed to be a Commitment, Binder or other agreement to issue a policy of title insurance. The obligations of Indemnitor under this instrument shall continue until the liability of Company under the policy(s) (including without limitation, additional Owner's or Loan policies) issued in reliance upon it has been fully discharged.

2. Any collateral referred to on the reverse hereof and deposited by Indemnitor with Company as security, together with any interest earned on money held as collateral, and any other money or property which Indemnitor is or may hereafter become entitled to receive on account of the collateral (hereinafter collectively referred to as "collateral") shall secure performance of all of Indemnitor's obligations, duties, agreements and promises under this instrument. Company shall be entitled to all rights and remedies of a secured party under the UCC and any other applicable law. Company will deposit any money held as collateral in a non-interest bearing account(s) in Company's name in any state or national bank, unless the collateral is invested in an interest bearing account(s) in Company's name pursuant to an agreement between Company and Indemnitor, in which case all income earned shall accrue to Indemnitor, and Indemnitor shall pay all taxes, charges, liens, and assessments against the collateral. If indemnitor fails to do so, Company at its option may pay any of them and shall be the sole judge of the legality or validity thereof and the amount necessary to discharge the same. Said bank account(s) may or may not be insured by the Federal Deposit Insurance Corporation and all risk of loss shall accrue to indemnitor. Company, may, at any time, without notice, and at Indemnitor's expense, compromise or settle any claims affecting Company rights in collateral or Company rights under this Agreement. In the event of Indemnitor's breach or default under the terms of this Agreement, Company shall have the right to use or apply all or any of the collateral, or disburse proceeds of the collateral, to obtain release or discharge of the Exception. Indemnitor further authorizes Company, without notice or demand and without affecting Indemnitor's liability under this Agreement, from time to time, to (a) hold as additional security any profits or increases on the collateral and apply the additional security to the discharge or release of the Exception; (b) apply the collateral or other security and direct the order or manner of disposition as Company in its discretion may determine; (c) release or substitute the Indemnitor or any other person obligated under this Agreement; (d) pay reasonable attorneys' fees and legal expenses incurred by Company; (e) pay Company's escrow charges; and (f) disburse the balance of the collateral, the balance of the proceeds of the collateral, and the balance of the additional security, if any, to Indemnitor. Indemnitor waives any rights to require Company to (a) proceed against any person; (b) proceed against or exhaust any collateral; or (c) pursue any other remedy in Company's power.

3. If Company shall sustain or incur loss or damage either because no collateral was deposited or the collateral was insufficient, or because Indemnitor failed to provide sufficient funds upon demand by Company, Indemnitor shall become indebted to Company in amount equal to the loss and loss expense sustained or incurred by Company and agrees to repay Company that amount on demand, together with interest thereon, from the date of demand at the legal rate for judgments in the state where the real estate is located.

4. If Indemnitor fails timely to take such steps as in the opinion of Company are necessary to remove the matters set forth herein as the Exception to the title, on or before agreed date as provided herein, Company is authorized in its own discretion to take whatever steps, including but not limited to the commencement of legal action or payment of money, that it determines necessary or advisable to remove said matters, and in connection therewith Indemnitor shall, upon demand, advance to Company all funds necessary, including all costs, attorneys' fees, and other expenses.

5. If the collateral deposited with Company is insufficient to obtain a release or discharge of the Exception (including attorneys' fees, costs and all other expense of so obtaining) the Indemnitor, upon demand by Company, shall advance to Company all such funds as, in the sole discretion of Company, may be necessary to obtain such release or discharge or otherwise satisfy Company's obligations under said Policy(s).

6. Company shall have the right to select and approve any and all counsel who may be retained by Company or by Indemnitor to defend any action brought by any party as a result of Company issuing its policy(s) without showing said Exception, or insuring against loss, damage, cost or expense which may result from the matters referred to in said Exception, or any counsel retained by Company or Indemnitor to bring any action or to perform any work to correct the matters shown in the Exception, and Indemnitor agrees promptly to pay the counsel so selected or approved by Company.

7. In this instrument, wherever the context so requires, the singular number includes the plural, and where there is more than one person included as Indemnitor the obligations of this agreement shall be binding on all such persons jointly and severally. "Person" herein includes individuals, husband and wife (jointly and severally), corporations, partnerships and all other entities designated in and executing this instrument as Indemnitors. If any Indemnitor be not bound hereunder for any reason, this instrument shall be binding upon the other Indemnitors. "Policy" shall be deemed to include a binder or commitment; and "Commitment" shall be deemed to include binder.

8. This instrument shall be liberally construed in the interest of and for the protection of Company. If any provision hereof is held to be void or unenforceable under the laws of any place covering its construction or enforcement, this instrument shall not be void or vitiated thereby, but shall be construed to be in force with the same effect as though such provision were omitted.

9. The liability of Indemnitor under this instrument is direct and primary and is not conditioned or contingent upon prior pursuit of any remedies by Company except demand for performance upon Indemnitor. Indemnitor shall be liable for and shall pay promptly to Company all costs, expenses and attorneys' fees incurred by Company in enforcing its rights hereunder.

10. This instrument shall be binding upon Indemnitors, and each of them, their heirs, assigns, and legal successors, and shall insure to the benefit of Company, its successors or assigns, including, without limitation, any other insurer involved in reinsuring, in any manner, any liabilities of Company under any policy(s) of title insurance or endorsement(s) thereto issued in reliance hereon.

11. Written notice shall be deemed to have been duly served if delivered to the person or to a member of the firm or to an officer of the corporation for whom it was intended, or if delivered at or sent by Registered or Certified Mail to the appropriate address shown herein.