

MOREHEAD TITLE COMPANY
OPEN ESTATE AFFIDAVIT AND INDEMNITY AGREEMENT

**NOTE: THIS FORM IS TO BE USED ONLY IN SITUATIONS WHICH HAVE BEEN SPECIFICALLY
APPROVED BY AN UNDERWRITER FOR MOREHEAD TITLE COMPANY PRIOR TO CLOSING**

This **OPEN ESTATE AFFIDAVIT AND INDEMNITY AGREEMENT** (hereinafter "Agreement") made and entered into as of the ____ day of _____, 20____, by and between _____

_____ (collectively, and jointly and severally if more than one, hereinafter "Indemnitor"), and MOREHEAD TITLE COMPANY (hereinafter "Company"). Indemnitor, first being duly sworn, deposes, says, and agrees as follows:

WHEREAS, Company has been asked to issue its title insurance commitment(s) and/or policy or policies insuring against loss or damage by reason of defects or possible defects in the title to property described as follows (hereinafter "Property"):

WHEREAS, the Property was formerly owned by:

Decedent: _____
Date of Death: _____
Estate File No: _____
County: _____; and

WHEREAS, Decedent's estate has not been fully administered and closed; and

WHEREAS, title to the Property has passed under Decedent's will admitted to probate or pursuant to the laws of intestacy to the following parties (please indicate if minor or incompetent): _____

_____; and

WHEREAS, _____ has been appointed by the Clerk of Superior Court as ____ Executor ____ Administrator of Decedent's estate; and

WHEREAS, if Decedent died within the preceding two years, the Notice to Creditors has been published at least once; and

WHEREAS, Company has noted as exceptions to the aforesaid title the following actual or supposed rights, interests, liens, claims, encumbrances or defects in title (hereinafter "Title Matter"):

The Property is or may be subject to matters resulting from the incomplete administration of Decedent's estate including but not limited to: any debts or claims of debt of the estate of Decedent; potential estate and/or inheritance taxes; appeal of any order admitting a will to probate; institution of a suit impeaching such will; filing of a claim for an elective share; filing of a renunciation of any interests in property; discovery and probate of a later will; claims or interests of any undisclosed or disinherited heirs or undisclosed spouses of heirs or devisees; disqualification of any heir or devisee of Decedent's estate; and any claim of unmarketability of title.

WHEREAS, Indemnitor desires Company issue its title insurance commitment(s) and/or policy or policies without exception to or providing affirmative coverage for the Title Matter; and

WHEREAS, Company may concurrently herewith or hereafter in the ordinary course of its business and in reliance on the representations herein made issue another commitment and/or policy in the form or forms now or then commonly used by Company insuring without exception to or providing affirmative coverage for the Title Matters; and

WHEREAS, Company is willing to issue its commitment(s) and/or policy or policies without exception to or providing affirmative coverage for the Title Matter only if indemnified as herein set out.

NOW, THEREFORE, for and in consideration of the issuance of said title insurance commitment(s) and/or policy or policies and other good and valuable consideration, the receipt of which is hereby acknowledged, Indemnitor does hereby agree with Company as follows:

1. Indemnitor agrees to defend, at Indemnitor's own cost and expense on behalf of and for the protection of Company and the parties insured or who may be insured under said title insurance commitment(s) and/or policy or policies (but without prejudice to the right of Company to defend at the reasonable expense of Indemnitor if Company so elects), any and

every suit, action or proceeding in which the Title Matter may be asserted or attempted to be asserted, established or enforced in, to, upon, against or in respect to the Property, or any part thereof, or interest therein.

2. Indemnitor agrees to indemnify and hold Company and any parties insured or who may be insured under said title insurance commitment(s) and/or policy or policies harmless of and from any and all loss, costs, damage and expense of every kind, including attorney's fees, which Company and/or said parties shall or may incur or become liable for as a result of the Title Matter, directly or indirectly, including but not limited to diminution in value, unmarketability of title and actions to enforce this Agreement.
3. Each and every provision of this Agreement shall extend to and be in force concerning any and every other title insurance commitment and/or policy Company may at any time or times hereafter issue insuring without exception to or providing affirmative coverage for the Title Matter.
4. This Agreement contains the entire agreement of the parties and there are no representations, inducements, or other provisions other than those expressed in writing. All changes, additions or deletions hereto must be in writing and signed by all parties.
5. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. It is made to induce the purchase of and/or a loan secured by the Property described herein and the issuance of a title insurance commitment(s) and/or policy or policies relating to same. Indemnitor acknowledges that Company is relying on the representations and indemnifications contained herein in issuance of said commitment(s) and/or policy or policies. The provisions of this Agreement shall survive the disbursement of funds and closing of this transaction and shall be binding upon Indemnitor, its/their successors and/or assigns.
6. Indemnitor agrees that the Company may demand arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Indemnitor arising out of or relating to this Agreement, or any breach thereof. Arbitration pursuant to this Agreement and under the Rules in effect on the date of this Agreement, shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

IN WITNESS WHEREOF, this Agreement is executed as of the day and year first above written.

ENTITY NAME

By: _____

Printed/Typed Name: _____

Title: _____

By: _____

Printed/Typed Name: _____

Title: _____

Entity Address: _____

_____ (SEAL)

Printed/Typed Name: _____

Address: _____

_____ (SEAL)

Printed/Typed Name: _____

Address: _____

_____ (SEAL)

Printed/Typed Name: _____

Address: _____

State of _____

County of _____

Signed and sworn to (or affirmed) before me this day by _____ [insert name(s) of principal(s)],
 and I certify that each of the aforesaid person(s) personally appeared before me this day acknowledging to me that he or she signed the foregoing document.

Date: _____

_____, Notary Public

Notary's Printed or Typed Name

(Official/Notarial Seal)

My commission expires: _____