

MOREHEAD TITLE COMPANY
JUDGMENT - ESCROW AND INDEMNITY AGREEMENT

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

This **JUDGMENT - ESCROW 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").

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, 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"):

JUDGMENT(S) DOCKETED:

<u>Creditor</u>	<u>Judgment Docket & Page</u>	<u>Principal Amount</u>	<u>Date of Docketing</u>
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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 upon receipt of the Funds as herein defined and only if indemnified as herein set out; and

WHEREAS, Indemnitor has agreed to deposit the sum of \$_____ (hereinafter "Funds") with Company in accordance with the terms of this Agreement.

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. As security for performance of the provisions of this Agreement, Indemnitor has deposited the sum of \$_____ with Company to be held pending final resolution of the Title Matter.
2. Indemnitor agrees to provide Company with a completed IRS Form W-9, Request for Taxpayer Identification Number and Certification. Upon receipt of this form, Company agrees to deposit the Funds.
3. If Company in its sole discretion determines that all or any portion of the Funds should be disbursed as it deems appropriate in order to protect any person or entity having an interest in the Property, in order to protect title to the Property, or for any other reason in Company's reasonable discretion, then Company shall be entitled to disburse all or any portion of said Funds in order to cause the Title Matter to be resolved to its satisfaction.
4. If the Funds deposited with Company are insufficient to resolve the Title Matter (including attorneys' fees, costs and all other expense of so obtaining), Indemnitor, upon demand by Company, shall advance to Company all such additional funds as, in the sole discretion of Company, may be necessary to obtain such resolution or otherwise satisfy Company's obligations under any commitment or policy issued by Company.
5. If Company shall sustain or incur loss or damage because the Funds were insufficient or because Indemnitor failed to provide sufficient additional funds upon demand by Company, Indemnitor shall be obligated to Company in an amount equal to the loss sustained or incurred by Company (including attorneys' fees, costs and all other expense of resolving the Title Matter) 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 North Carolina.
6. If the Title Matter is resolved to the satisfaction of Company in its sole and reasonable discretion, then Company shall pay the deposited Funds or balance thereof to Indemnitor, together with and including any accrued interest.

7. 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.
8. 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.
9. 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.
10. This Agreement and the Conditions of Escrow attached hereto contain 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.
11. 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.
12. 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.

_____ (SEAL)
 ENTITY NAME
 By: _____
 Printed/Typed Name: _____
 Title: _____
 By: _____
 Printed/Typed Name: _____
 Title: _____
 Entity Address: _____
 Tax Identification No. _____

 Printed/Typed Name: _____
 Address: _____
 Social Security No. _____
 _____ (SEAL)
 Printed/Typed Name: _____
 Address: _____
 Social Security No. _____
 _____ (SEAL)
 Printed/Typed Name: _____
 Address: _____
 Social Security No. _____

State of _____
 County of _____

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

Date: _____

_____, Notary Public
 Notary's Printed or Typed Name

(Official/Notarial Seal)

My commission expires: _____

CHICAGO TITLE COMPANY, LLC and/or MOREHEAD TITLE COMPANY
CONDITIONS OF ESCROW

CHICAGO TITLE COMPANY, LLC and/or MOREHEAD TITLE COMPANY (hereinafter "Chicago Title") accepts the funds to be held by Chicago Title (hereinafter "Funds") as described in the letter and/or agreement between the parties and/or any related escrow agreement(s) (hereinafter "Agreement") subject to these Conditions of Escrow:

1. The Funds may be processed for collection in the normal course of business by Chicago Title, who may commingle funds received by it with escrow funds of others in the regular escrow account at Wells Fargo Bank, or such other institution as maintained from time to time by Chicago Title (hereinafter the "Depository"). The parties to this escrow acknowledge that the maintenance of such escrow accounts with some Depository institutions may result in Chicago Title being provided with an array of bank services, accommodations or other benefits by the Depository institution. Chicago Title or its affiliates also may elect to enter into other business transactions with or obtain loans for investment or other purposes from the Depository institution. All such services, accommodations and other benefits shall accrue to Chicago Title, and Chicago Title shall have no obligation to account to the parties to the escrow for the value of such services, accommodations or other benefits.
2. Chicago Title shall not be liable for any loss caused by the failure, suspension, inability to pay funds or accrued interest, bankruptcy or dissolution of the Depository. Parties to the Agreement acknowledge their familiarity with limitations on payments made on accounts in excess of \$250,000.00 and the cumulative effect of other accounts held or owned by the parties in the Depository.
3. Chicago Title is not responsible for levies by taxing authorities or judicial order based upon the taxpayer identification number used to establish an interest-bearing account.
4. Chicago Title shall not be liable for loss or damage resulting from:
 - a. Any good faith act or forbearance of Chicago Title;
 - b. Any default, error, action or omission of any party, other than Chicago Title;
 - c. Any defect in the title to any property. If elected by the parties, any title defect should be addressed under a separate policy of title insurance issued as a part of the transaction contemplated herein;
 - d. The expiration of any time limit or other delay which is not solely caused by the failure of Chicago Title to proceed in its ordinary course of business, and in no event where such time limit is not disclosed in writing to the Chicago Title;
 - e. The lack of authenticity of the signatory to sign such writing;
 - f. Chicago Title's compliance with all attachments, writs, orders, judgments, or other legal process issued out of any court;
 - g. Chicago Title's assertion or failure to assert any cause of action or defense in any judicial or administrative proceeding;
 - h. Any loss or damage which arises after the Funds have been disbursed in accordance with the terms of this Agreement; or
 - i. Any delay of this escrow due to fires, acts of God, acts of governmental authorities, strikes, pandemics, or other cause beyond the control of Chicago Title.
5. Chicago Title shall hold the Funds until written release/disbursement instructions are received from the parties to the Agreement regardless of any conflicting provisions in the Agreement or any other agreements between the parties, whether Chicago Title has signed the Agreement or not. Chicago Title reserves the unqualified right to interplead the Funds into any court action related to the Funds. Chicago Title shall be fully indemnified by the parties hereto for all expenses, costs, and reasonable attorneys' fees incurred in connection with any interpleader action which Chicago Title may file, in its sole discretion, to resolve any dispute as to the Funds or which may be filed against Chicago Title. Such costs, expenses or attorneys' fees may be deducted from the Funds. For purposes of these Conditions of Escrow, the term "interplead" or "interpleader" shall include the deposit of disputed monies with the clerk of court under NCGS 93A-12.
6. If Chicago Title is made a party to any judicial, non-judicial or administrative action, hearing or process based on acts of any of the other parties hereto and not on the malfeasance and/or negligence of Chicago Title in performing its duties hereunder, the expenses, costs and reasonable attorneys' fees incurred by Chicago Title in responding to such action, hearing or process may be deducted from the Funds held hereunder and the party/parties whose alleged acts are a basis for such proceedings shall indemnify, save and hold Chicago Title harmless from said expenses, costs and fees so incurred.

7. If a party to the Agreement requests that all or a portion of the Funds be invested in an interest-bearing account (hereinafter "Invested Funds") and if Chicago Title agrees to do so, Chicago Title is hereby authorized and directed to invest the Invested Funds in the name of the party by Chicago Title Company, LLC, as escrow agent, as follows:
 - a. Chicago Title shall have NO OBLIGATION TO INVEST any of the Funds unless and until Chicago Title receives satisfactory investment instructions and IRS Form W-9 Request for Taxpayer Identification Number and Certification from the party to whom interest is to accrue.
 - b. Invested Funds will be invested in an FDIC Money Market Account at the discretion of Chicago Title unless otherwise agreed in writing by Chicago Title and the parties to this Agreement. The investment shall be subject to the rules, regulations, policies and procedures of the Depository.
 - c. Interest shall be payable at the time the Funds are disbursed in accordance with the terms of the Agreement and written release/disbursement instructions from the parties to the Agreement.
 - d. All investments will be made in the regular course of business. To be entitled to same-day investment (assuming collected funds are received), the Funds to be invested must be received by noon; otherwise such Funds will be invested on the next business day.
8. In the event of any conflict between these Conditions of Escrow and the Agreement or any other agreements between the parties hereto regarding the Funds, the provisions of these Conditions of Escrow shall prevail.