

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement (the "*Agreement*") is effective as of April 29, 2011 regardless of the date that all parties have executed the *Agreement*, and is entered into by and between Federal Deposit Insurance Corporation, as Receiver for IndyMac Bank, F.S.B. ("*FDIC*") and First American Title Insurance Company ("*FATCO*") and Title Insurance Company of Oregon ("*TICO*") (*FATCO* and *TICO* are hereinafter referred to collectively as the "*Title Insurers*") with respect to the claims made in the case captioned *Federal Deposit Insurance Corporation, as Receiver for IndyMac Bank, F.S.B. v. Parsons, et al.*, in the United States District Court, Eastern District of Michigan, Case No. 09-cv-12614 (the "*Litigation*").

RECITALS

WHEREAS, IndyMac Bank, F.S.B ("*IndyMac*") financed four separate real property purchase transactions in which individual borrowers used mortgage loans funded by IndyMac to purchase vacant properties located in Plymouth, Michigan known as (b)(6) (b)(6) and (the (b)(6) "*Subject Transactions*");

WHEREAS, Source One Title Agency, Inc. ("*Source One*") performed title, escrow, and closing services in connection with the *Subject Transactions* (the "*Closing Services*");

WHEREAS, the *Title Insurers* issued closing protection letters (the "*CPLs*") to *IndyMac* relating to the *Closing Services*;

WHEREAS, *FDIC* asserted claims in the *Litigation* against the *Title Insurers* based on the *CPLs*;

WHEREAS, the *Title Insurers* expressly deny any liability relating to the claims asserted by *FDIC* in the *Litigation*; and

WHEREAS, to avoid any further expense of litigation, the parties, having participated in a court-ordered facilitation, voluntarily enter into this *Agreement*.

In consideration of the above and for such other good and valuable consideration, the sum and sufficiency of which is hereby acknowledged and based on the mutual promises and conditions contained herein, the parties agree as follows:

1. **Recitals.** The above Recitals are incorporated herein by reference and made a part of this *Agreement*.

2. **Mutual Release.** For and in consideration of the total payment of \$390,000 (Three Hundred Ninety Thousand Dollars) by *FATCO* on behalf of the *Title Insurers* to be payable to "RJ Landau Partners PLLC, Attorneys for Federal Deposit Insurance Corporation" within fifteen (15) days of the execution of this *Agreement* by *FDIC*, and in consideration of the terms and conditions of this *Agreement*, *FDIC* does absolutely and unconditionally release the *Title Insurers*, the *Title Insurers'* officers, directors, shareholders, members, employees, owners, agents, affiliates, successors, fiduciaries, and assigns, jointly and severally, from any and all claims, demands, actions or causes of action, known or unknown, now existing or hereafter acquired, and whether or not asserted in the *Litigation*, which *FDIC* had, has, claims to have, or may hereafter acquire against the *Title Insurers* arising out of the *Subject Transactions*, the *Closing Services*, the *CPLs*, and/or the facts and circumstances alleged in the *Litigation*.

For and in consideration of the terms and conditions of this *Agreement*, the *Title Insurers* do absolutely and unconditionally release *FDIC* and *FDIC's* officers, directors, shareholders, members, employees, owners, agents, affiliates, successors, fiduciaries, and assigns, jointly and severally, from any and all claims, demands, actions or causes of action, known or unknown, now existing or hereafter acquired, and whether or not asserted in the *Litigation*, which the *Title*

Insurers had, have, claims to have, or may hereafter acquire against *FDIC* arising out of the *Subject Transactions*, the *Closing Services*, the *CPLs*, and/or the facts and circumstances alleged in the *Litigation*.

3. **Express Reservation from Releases by *FDIC*.** Notwithstanding any other provision, by this *Agreement*, *FDIC* does not release, and expressly preserves fully and to the same extent as if the *Agreement* had not been executed, (a) any claims or causes of action that do not arise from or relate to the facts and circumstances alleged in the *Litigation*, or the defense of the same, or (b) any action taken by any other federal agency.

4. **No Assignment.** The parties hereto warrant that they have made no other assignment, transfer, conveyance, or other disposition of any claims, demands, causes of action, obligations, damages and/or liabilities described above and that they are fully entitled to give their full and complete release of all such claims and demands.

5. **Denial of Liability.** This *Agreement* constitutes a compromise of disputed claims. This *Agreement* shall not constitute or be construed as an admission of any liability or fault by any party hereto, all such liability being herein expressly denied. This *Agreement* shall not be construed as an admission of the truth or correctness of any claim asserted by the parties.

6. **Assumption of Risk of Material Fact.** The parties expressly assume the risk of any mistake of fact, known or unknown, relating to any of the claims compromised by this *Agreement*.

7. **Attorney's Fees and Costs.** Each party shall bear its own attorney's fees and costs with respect to the *Litigation*.

8. **Amendment.** This *Agreement* may not be amended or modified at any time except by any instrument in writing executed by all of the parties.

9. **Execution.** This *Agreement* may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one in the same instrument. Additionally, signature pages delivered by facsimile or via electronic mail in portable document format (.pdf) shall be deemed originals. The parties further agree that, without receiving further consideration, they will sign and deliver such documents and do anything else that is reasonably necessary in the future to make the provisions of this *Agreement* effective.

10. **Integrated Agreement.** This *Agreement* sets forth the entire understanding between the parties concerning the subject matter of this *Agreement* and incorporates all prior negotiations and understandings. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between them relating to the subject matter of this *Agreement* other than those set forth herein.

11. **Governing Law.** This *Agreement* shall be governed by and construed in accordance with Michigan law (excluding any conflict of laws rule or principle that might refer the governance or construction of this *Agreement* to the law of another jurisdiction). Nothing in this *Agreement* shall require any unlawful action or inaction by any party hereto.

12. **Severability.** If any portion of this *Agreement* is found to be unenforceable, the parties desire that all other portions that can be separated from the unenforceable portion or appropriately limited in scope shall remain fully valid and enforceable.

13. **Representation.** No representation or warranty has been made by or on behalf of any party to this *Agreement* (or any officer, director, employee or agent thereof) to induce any other party to enter into this *Agreement* or to abide by or consummate any transactions contemplated by any terms of this *Agreement*, except representations and warranties, if any,

expressly set forth herein. In entering into this *Agreement*, the parties hereto represent that they have proceeded with the advice of an attorney of their own choice, that they have read the terms of this *Agreement*, that the terms of this *Agreement* have been completely read and explained to the parties by their attorney, and that those terms are fully understood and voluntarily accepted by the parties.

14. **Authority.** Each person signing this *Agreement* on behalf of any entity warrants or represents that he/she has the full and complete authority to enter into this *Agreement* on behalf of that entity.

15. **Titles and Captions.** The section titles and captions contained in this *Agreement* are inserted only for convenience and reference and shall not be construed to define, limit, or extend the scope of this *Agreement* or the intent of any of its provisions.

IN WITNESS WHEREOF, the parties to this *Agreement* have executed this *Agreement* as of the date indicated by each party's signature.

Federal Deposit Insurance Corporation, as
Receiver for IndyMac Bank, F.S.B.

By: (b)(6)
Name: Richard S. Giv
Title: Counsel
Date: 5-17-11

First American Title Insurance Company

(b)(6)

By:

Name: Beth Schreiber

Title: Senior Claims Counsel

Date: 5/6/11

Title Insurance Company of Oregon

(b)(6)

By:

Name: Beth Schreiber

Title: Senior Claims Counsel

Date: 5/6/11