

## RESTATEMENT OF EMPLOYMENT AGREEMENT

THIS RESTATEMENT OF an EMPLOYMENT AGREEMENT ("Agreement") dated as of the Effective Date (hereinafter defined) by and between REPUBLIC TITLE OF TEXAS, INC. ("Employer"), and Wendy Davis ("Employee") and constitutes a complete and total restatement of all previous employment agreements between Employer and Employee:

### WITNESSETH:

WHEREAS, Employer desires to form a division, Republic Title of Fort Worth, to conduct commercial title insurance and escrow business in Tarrant County, Texas; and

WHEREAS, Employer wishes to provide for the employment by Employer of Employee, and Employee wishes to serve Employer, in the capacities and on the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the above recitals and of the mutual promises and conditions in this Agreement, it is agreed as follows:

#### 1. TERM OF EMPLOYMENT

The employment hereunder shall be for a period commencing on the date hereof and ending five years thereafter, unless earlier terminated as provided in Section 9 below (the "Employment Term"). If Employee continues as an employee of Employer after the Employment Term, such employment will be at-will, shall not, absent an express writing to the contrary between Employer and Employee, constitute an extension of the term of this Agreement, but shall otherwise be upon the same terms and conditions as are specified herein.

#### 2. PLACE OF EMPLOYMENT

Unless the parties agree otherwise in writing, during the Employment Term, Employee shall perform the services he is required to perform under this Agreement at such address in the greater Dallas/Ft. Worth, Texas metropolitan area as Employer may designate in writing from time to time; provided, however, such address shall be in the commercial title insurance business offices of Employer located at 420 Throckmorton, Suite 640, Fort Worth, Texas.

#### 3. DUTIES AND AUTHORITY

Employee shall serve as Chief Executive Officer of Employer's division to be known as Republic Title of Fort Worth, subject to the directions and policies from time to time of Employer's Board of Directors and the senior officers of The First American Corporation and First American Title Insurance Company (together, "First American"), whether stated orally or in writing. In this capacity, Employee shall perform the duties and have the responsibilities assigned by Employer. In the event of a conflict between the directions and policies of the Employer and First American, those of the Employer shall govern and control the obligations of the Employee hereunder.

#### 4. EXCLUSIVITY

During the Employment Term, Employee shall devote substantially all of her business and professional time, energy and ability to the business and interests of Employer and its subsidiaries, and the performance of this Agreement, and shall not, without Employer's prior written consent, render to others services of any kind for compensation, or engage in any other business activity that would interfere with the performance of her duties under this Agreement.

Employee hereby represents and warrants that she has the legal capacity to execute and perform this Agreement, that this Agreement is a valid and binding agreement enforceable against her according to its terms, and that the execution and performance of this Agreement by her does not violate the terms of any existing agreement or understanding, written or oral, to which Employee is a party or any judgment or decree to which Employee is subject. In addition, Employee represents and warrants that she knows of no reason why she is not physically or legally capable of performing her obligations under this agreement in accordance with its terms. Employee hereby indemnifies Employer and Employer's affiliates (collectively, the "Related Companies") and shall hold harmless the Related Companies from and against any liability, loss, cost or expense, including, without limitation, reasonable attorneys' fees and expenses, incurred by any Related Company by reason of the inaccuracy of Employee's representations and warranties contained in this Section 4.

5. COVENANT NOT TO COMPETE

During the Employment Term, and during any period in which Employee receives compensation under Section 9(f)(ii), Employee shall not, directly or indirectly, whether as partner, shareholder, member, director, officer, employee, consultant, creditor or otherwise, promote, participate or engage in any activity or other business competitive with the title insurance business of any Related Company. In addition, Employee, during the Employment Term, shall not take any action without Employer's prior written consent to establish or become employed by a competing title insurance business on termination of employment by Employer. Employee's failure to comply with the provisions of this Section shall give Employer the right (in addition to all other remedies Employer may have) to terminate any benefits or compensation to which Employee may be otherwise entitled following termination of this Agreement. If, at the time of enforcement of the covenants contained in this Section, a court shall hold that the duration, scope or area of restrictions stated herein are unreasonable under the circumstances then existing, it is agreed that the maximum duration, scope or area reasonable under such circumstances shall be substituted for the stated duration, scope or area.

6. COMPENSATION AND BENEFITS

(a) Base Salary. During the Employment Term, Employer shall pay Employee a base salary in the annual amount of \$180,000 (the "Base Salary"). The Base Salary shall be payable as current salary with such frequency as is standard for similarly situated employees of Employer. The Base Salary shall be prorated for any partial pay period that occurs during the term of this Agreement in accordance with Employer's standard payroll policies applied to similarly situated employees of Employer. All payments due to Employee hereunder shall be made subject to such withholdings and deductions as are required to be made under applicable law.

(b) Benefits. During the Employment Term, Employee shall be entitled to receive all benefits of employment generally available to other senior executive employees of Employer when and as he becomes eligible for them, including medical, dental, life and disability insurance benefits. Employer reserves the right to modify, suspend or discontinue any and all of the above benefit plans, policies, and practices at any time without notice to or recourse by Employee, so long as such action is taken generally with respect to other similarly situated employees of Employer and does not single out Employee.

7. OWNERSHIP OF INTANGIBLE PROPERTY

All processes, inventions, patents, copyrights, trademarks and other intangible rights that may be conceived or developed by Employee, either alone or with others, during the Employment Term, whether or not conceived or developed during Employee's working hours, and with respect to which the equipment, supplies, facilities or trade secret information of any Related Company was used, or that relate at the time of conception or reduction to practice of the invention to the business of any Related Company or to any Related Company's actual or demonstrably anticipated research and development, or that result from any work performed by Employee for any Related Company, shall be the sole property of Employer. Employee shall disclose to Employer all inventions conceived during the term of employment and for one year thereafter, whether or not the property of any Related Company under the terms of the preceding sentence, provided that such disclosure shall be received by Employer in confidence. Employee shall execute all documents, including patent applications and assignments, required by Employer to establish Employer's rights under this Section.

8. INDEMNIFICATION

Employer shall, to the maximum extent permitted by law and its articles of incorporation and bylaws, indemnify and hold Employee harmless for any acts or decisions made in good faith while performing services for Employer. To the same extent, Employer will pay, and subject to any legal limitations, advance all expenses, including reasonable attorneys' fees and costs of court-approved settlements, actually and necessarily incurred by Employee in connection with the defense of any action, suit or proceeding and in connection with any appeal, which has been brought against Employee by reason of his good faith service as an employee or agent of Employer.

9. TERMINATION

(a) For Cause. This Agreement shall be terminated upon the discharge of Employee by Employer in writing for Cause. For purposes of this Agreement, an event or occurrence constituting "Cause" shall mean:

(i) Employee's willful failure or refusal after notice thereof, to perform specific legal and ethical directives of Employer's Board of Directors and/or senior officers of The First American, subject, however, to the provisions of Section 3 hereof;

- (ii) Dishonesty of Employee affecting Employer or any affiliate or subsidiary of Employer;
- (iii) Drunkenness or use of drugs which interferes with the performance of Employee's duties and responsibilities under this Agreement;
- (iv) Employee's conviction of a felony or of any crime involving moral turpitude, fraud or misrepresentation;
- (v) Any gross or willful conduct of Employee resulting in material loss to Employer (except underwriting and business decisions made in good faith and which are not otherwise considered to be gross negligence or willful misconduct under Texas law) or any other Related Company, material damage to the reputation of Employer or any affiliate or subsidiary of Employer or theft or defalcation from Employer or any affiliate or subsidiary of Employer;
- (vi) Gross incompetence on the part of Employee in the performance of her duties and responsibilities under this Agreement;
- (vii) The monthly Adjusted Gross Income, as defined by Employer's normal accounting procedures, remains below \$150,000 for 9 consecutive months; or
- (viii) Employee, for whatever reason, no longer resides in Tarrant County or Employee is elected to public office requiring service outside of Tarrant County;
- (ix) Any material breach (not covered by any of clauses (i) through (viii) above) of any of the provisions of this Agreement if such breach is not cured within 15 days after written notice thereof to Employee by Employer.

(b) Without Cause. All employees of Employer, including Employee, serve at the will of Employer. Accordingly, Employer has the right to terminate Employee or other employee and thereby terminate all salary obligations to such individual except as specifically provided herein with respect to Employee. Employee is not bound by contract to work for either Employer or any affiliate or subsidiary of Employer except pursuant to this Agreement.

(c) Retirement or Resignation. This Agreement shall be terminated by Employee's voluntary retirement, which retirement shall be effective two weeks after Employee provides Employer notice of such voluntary retirement. This Agreement shall be terminated immediately upon Employee's resignation. For the avoidance of doubt, the term "voluntary retirement" includes Employee's leaving the employ of Employer on her own volition whether Employee actually "retires," or pursues other business endeavors not otherwise prohibited herein.

(d) Disability. If, at the end of any calendar month during the Employment Term, Employee is and has been for the four consecutive full calendar months then ending, or for 80 percent or more of the normal working days during the six consecutive full calendar months then ending, unable due to mental or physical illness or injury to perform her duties under this Agreement in her normal and regular manner, this Agreement shall be then terminated.

(e) Death. This Agreement shall be terminated immediately upon the death of the Employee.

(f) Rights and Obligations Upon Termination.

(i) If Employee gives notice of termination of this Agreement under this Section, or if it becomes known that this Agreement will otherwise terminate in accordance with its provisions, Employer may, in its sole discretion and subject to its other obligations under this Agreement, relieve Employee of her duties under this Agreement and assign Employee other reasonable duties and responsibilities to be performed until the termination becomes effective.

(ii) If this Agreement is terminated pursuant to Section 9(b), Employee shall be entitled to all unpaid Base Salary, which would otherwise have been payable to Employee, or to which Employee would have been entitled, during the remaining balance of the Employment Term had her employment not been so terminated, at the times and in the manner in which such payments would have been payable but for such termination; provided that Employee acknowledges that her right to receive such payments constitutes consideration for Employee's continuing covenants under Sections 5 and 11, and if following such termination Employee shall have breached any of her covenants contained in Section 5 and 11, Employee shall no longer have the right to receive any such payments and Employer shall be discharged in full from its obligations under this clause (ii).

10. SURVIVAL

Each of the representations, warranties and covenants set forth in Sections 4, 5, 7, 9(f)(ii), 10 and 11 of this Agreement shall survive and shall continue to be binding upon the Employee notwithstanding the termination of this Agreement for any reason whatsoever.

11. UNFAIR COMPETITION

Because of her employment by Employer, Employee will have access to trade secrets and confidential information about the Related Companies, their products, their customers and their methods of doing business. Such information is considered secret and is disclosed to Employee in confidence. During and after her employment by Employer, Employee shall not directly or indirectly disclose or use any such information except as required in the course of his employment by Employer. In consideration of his access to this information, Employee agrees that during the Employment Term, and during any period in which Employee receives compensation under Section 9(f)(ii), she shall not induce or attempt to induce any employee of any Related Company to discontinue employment with or representation of such Related Company for the purpose of employment with or representation of a competitor of the Related Companies.

12. BREACH BY EMPLOYEE

Employee is obligated under this Agreement to render services of a special, unique, unusual, extraordinary, and intellectual character, which give this Agreement peculiar value. The loss of these services cannot be reasonably or adequately compensated in damages in an action at law. Accordingly, in addition to other remedies provided by law or this Agreement, Employer shall have the right during the Employment Term and any period of non-competition governed by this Agreement, to obtain injunctive relief against the breach of this Agreement by Employee or the performance of services by Employee in violation of this Agreement, or both.

13. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties regarding the subject matter hereof and supersedes all prior oral and written agreements, understandings, commitments, and practices between them.

14. AMENDMENTS

No oral modifications, express or implied, may alter or vary the terms of this Agreement. No amendments or modifications to this Agreement and no waiver of any provision of this Agreement may be made except by a writing signed by both parties.

15. GOVERNING LAW

THE FORMATION, CONSTRUCTION, AND PERFORMANCE OF THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (EXCLUSIVE OF CONFLICTS OF LAWS PRINCIPLES) APPLICABLE TO AGREEMENTS EXECUTED AND TO BE PERFORMED SOLELY WITHIN SUCH STATE.

16. NOTICES

Any notice to Employer required or permitted under this Agreement shall be given in writing to Employer, either by personal service or by registered or certified mail, postage prepaid, addressed to each of the President and General Counsel of First American Title Insurance Company at its then principal place of business. Any such notice to Employee shall be given in a like manner and, if mailed, shall be addressed to Employee at her home address specified herein, or such other address as Employee shall notify Employer in writing from time to time in accordance with this Section 16. For the purpose of determining compliance with any time limit in this Agreement, a notice shall be deemed to have been duly given (a) on the date of service, if served personally on the party to whom notice is to be given, or (b) on the third business day after mailing, if mailed to the party to whom the notice is to be given by certified mail, return receipt requested.

17. RIGHT TO PAYMENTS

Except as to the obligations of First American to the Employee under the Letter Agreement (hereinafter defined), both before and after the Effective Date, Employee shall under no circumstances have any option or right to require payments hereunder otherwise than in accordance with the terms of this Agreement.

18. BINDING AGREEMENT

Except as otherwise expressly provided herein, this Agreement shall be binding upon, and shall inure to the benefit of, Employer, its successors and assigns. This Agreement, as it relates to Employee, is a personal contract and the rights and interest of Employee hereunder may not be sold, transferred, assigned, pledged or hypothecated.

19. SEVERABILITY

If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

20. CAPTIONS

Section headings are for convenience of reference only and shall not be considered a part of this Agreement.

21. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

22. THIRD-PARTY BENEFICIARIES

This Agreement shall not confer any rights or remedies upon any party other than Employer, Employee and their respective successors and permitted assigns.

23. ATTORNEYS FEES

In any legal action taken to enforce the terms and provisions hereof, the prevailing party in such action shall be entitled to recover his or its costs of suit and all reasonable attorneys fees incurred in connection with such legal action.

24. EFFECTIVE DATE

The term "Effective Date" shall mean the date of the closing and settlement of the transaction contemplated by that certain letter agreement ("Letter Agreement") dated June 1, 2004 by and among the Employee and First American.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on and as of the day and year first above written.

REPUBLIC TITLE OF TEXAS, INC.

By

Name: David A. Shuttee

Title: President and Chief Operating Officer

Wendy Davis  
Wendy Davis