

**LOST ASSIGNMENT OF MORTGAGE AFFIDAVIT AND  
INDEMNIFICATION AGREEMENT**

STATE OF ALABAMA           )  
COUNTY OF SHELBY        )

MORTGAGOR NAME:                               THOMAS C. SMITH AND SONJA K. SMITH,  
HUSBAND AND WIFE

ORIGINAL MORTGAGEE:                           AMSOUTH BANK

DATED:   14TH DAY OF APRIL, 2005

RECORDED:                                       INSTRUMENT NO. 20050415000178290

THIS LOST ASSIGNMENT OF MORTGAGE AFFIDAVIT AND INDEMNIFICATION AGREEMENT (this "Agreement") is made by THE BANK OF NEW YORK MELLON, F/K/A THE BANK OF NEW YORK as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 to and for the benefit of FIRST AMERICAN TITLE INSURANCE COMPANY and its partners, directors, officers, agents, and employees referred to herein collectively as "First American".

**WITNESSETH**

**WHEREAS**, The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 is the owner and holds all of the right, title and interest in, to and under that certain Promissory Note executed by Thomas C. Smith and Sonja K. Smith, husband and wife in favor of AmSouth Bank and dated the 14th day of April, 2005 (hereafter the "Note");

**WHEREAS**, an Assignment of Mortgage is used to memorialize the transfer of interest to The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9, or to a predecessor in interest of The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9, and is customarily caused to be recorded in the office of the Judge of Probate of the county where the subject property is located;

**WHEREAS**, in this instance, the Assignment of the beneficial interest of the Mortgage (hereafter the "Assignment"), as herein defined, to The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9, or to a predecessor in interest of The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 was not recorded in the office of the Judge of Probate of the county where the subject property is located;

**WHEREAS**, The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 does not have possession of the Assignment, nor does The Bank of New York Mellon, f/k/a The Bank of New York as



Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 have knowledge regarding the whereabouts of the Assignment, and furthermore The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 has used due diligence and its best efforts to locate this Assignment.

**NOW THEREFORE**, The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 represents, warrants and covenants as follows:

**1. The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 represents:**

- (a.) That Herman John Kennerty executing this Agreement on behalf of The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9, is the VP of Loan Documentation of The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 and has the power and authority to enter into this Agreement and to execute same on behalf of The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 ;
- (b.) That as of the date hereof, The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 is the sole owner of the Note, which is secured by that certain Mortgage recorded in Instrument No. 20050415000178290 in the Office of the Judge of Probate of Shelby County (hereafter the "Mortgage");
- (c.) That it is the understanding of The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 that the Assignment was duly executed and delivered by The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9's predecessor in interest but has been lost or misplaced, and The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 has been unable to locate the Assignment despite diligent efforts to do so;
- (d.) That if the Assignment is located at any time hereafter The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc.



Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 shall immediately forward the Assignment to First American;

(e.) That The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 warrants it has not assigned, pledged, sold, endorsed, or in any way transferred or hypothecated the Note or any interest therein.


2. **Indemnity.** The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 shall indemnify, defend and hold harmless First American from and against any and all liability, claims, demands, losses, damages or expenses, including but not limited to, reasonable attorney's fees and costs, suffered by, incurred by or asserted against First American, or any of them, by reason of any claim by anyone that the representations and warranties set forth in Paragraph 1 hereof are false or inaccurate in any respect, or by reason of any claim that the Mortgage is unenforceable, insufficient, or impaired.
3. **First American's Attorneys.** In the event of any litigation brought against First American which is covered by Paragraph 2 above, The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 agrees that First American shall have the right, in its sole discretion, to select and retain any attorneys to advise or defend them against said litigation, and The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 shall pay the reasonable attorney's fees and cost, as provided in Paragraph 2 above.
4. **Joint and Several Liability** The obligations of The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 hereunder shall be joint and several.
5. **Attorney's Fees.** In the event of any litigation between The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 and First American arising out of the parties' respective rights and/or obligations under the Agreement, or concerning the meaning or interpretation of any provision contained herein, the losing party shall pay the prevailing party's cost and expenses of such litigation, including, without limitation, reasonable attorney's fees and cost.
6. **Construction.** This Agreement, or any instrument to be drafted in the future, shall be construed without regard to any presumption or rule requiring construction against the party drafting said Agreement.
7. **Successors and Assigns.** This Agreement shall be binding on The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9, their respective heirs,



executors, administrators, successors and assigns, and shall inure to the benefit of First American and its respective heirs, executors, administrators, successors and assigns.

**IN WITNESS WHEREOF**, The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9 has executed this Agreement on this Wednesday, April 21, 2010

Wells Fargo Bank, NA Attorney-In-Fact-For The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9

By:   
Herman John Kennerty  
Its VP of Loan Documentation

#### ACKNOWLEDGEMENT

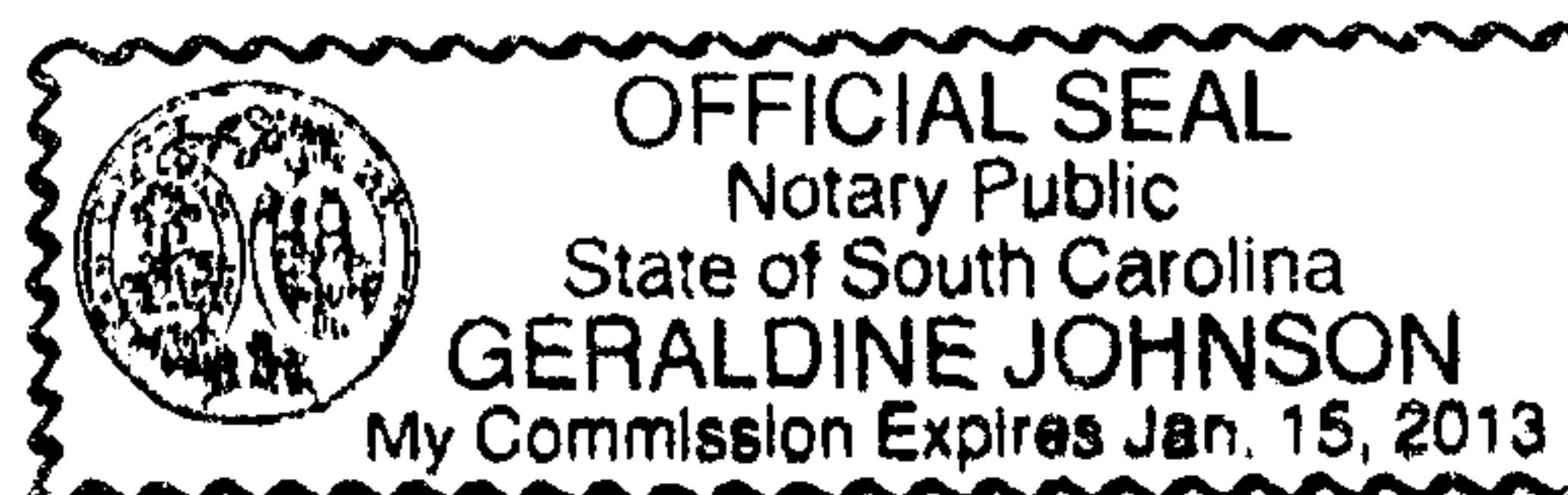
STATE OF South Carolina                    )

COUNTY OF York                            )

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that Herman John Kennerty whose name as VP of Loan Documentation of Wells Fargo Bank, NA Attorney-In-Fact-For The Bank of New York Mellon, f/k/a The Bank of New York as Successor in interest to JPMorgan Chase Bank, NA as Trustee for Structured Asset Mortgage Investments II Inc. Bear Stearns ALT-A Trust 2005-9, Mortgage Pass-Through Certificates, Series 2005-9, is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this Wednesday, April 21, 2010

  
NOTARY PUBLIC  
My commission Expires: \_\_\_\_\_



This instrument prepared by:  
Ginny Rutledge  
Sirote & Permutt, P.C.  
P.O. Box 55727  
Birmingham, AL 35255



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Shelby Cnty Judge of Probate, AL  
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