

**OWNER AFFIDAVIT AND INDEMNITY AGREEMENT**  
**(MLA – CONSTRUCTION COMPLETED, CONTEMPLATED OR UNDER WAY)**

**OWNER:** \_\_\_\_\_

(NOTE: A separate Agreement is required for each successive owner in the 120-Day Lien Period)

**PROPERTY:** \_\_\_\_\_

(Insert MLA Entry Number, street address or brief description and/or attach a description as Exhibit A.)

**DEFINITIONS:** The following capitalized terms as used in this Agreement shall have the following meanings:

- **Improvement:** All or any part of any building, structure, erection, alteration, demolition, excavation, clearing, grading, filling, or landscaping, including trees and shrubbery, driveways, and private roadways on the Property as defined below.
- **Labor, Services or Materials:** ALL labor, services, materials for which a lien can be claimed under NCGS Chapter 44A, Article 2, including but not limited to professional design services (including architectural, engineering, landscaping and surveying) and/or rental equipment.
- **15 Day Period:** The 15 days immediately preceding the date of recordation of the latter of the deed to purchaser or Deed of Trust to Lender, as referenced herein, in the Office of the Register of Deeds of the county in which the Property is located.
- **Owner:** Any person or entity, as defined in NCGS Chapter 44A, Article 2, who has or has had any interest in the Property within the 120-Day Lien Period. For the purposes of this Agreement, the term Owner includes: (i) a seller of the Property or a borrower under a loan agreement secured by the Property; (ii) a person with rights to purchase the Property under a contract and for whom an Improvement is made and who ordered the Improvement to be made; and (iii) the Owner's successors in interest and agents of the Owner acting within their authority.
- **Company:** The title insurance company providing the title policy for the transaction contemplated by the Owner herein as a seller or borrower.
- **Lender - INSERT NAME(S):** \_\_\_\_\_, and its/their successor and/or assigns.
- **Deed of Trust:** The real estate security instrument(s) to be executed by Owner and to encumber the Property in the currently contemplated transaction and any currently contemplated or future extensions, renewals, modifications, amendments or reinstatements thereof.
- **Property:** The real estate described above or on Exhibit A and any leaseholds, tenements, hereditaments, and improvements placed thereon, including any real estate that is a portion of a larger, previously unsegregated tract when that area is reasonably necessary for the convenient use and occupation of Improvements on the larger tract.)
- **MLA:** Mechanic's Lien Agent: A title insurance company or agency designated by an Owner pursuant to NCGS 44A-11.1.
- **Potential Lien Claimant:** any person or entity who has performed or furnished or has contracted to perform or furnish Labor, Services or Materials pursuant to a contract, either express or implied, with the Owner of real property for the making of an Improvement thereon and is entitled to claim a lien for improvements to real property under Article 2 of NCGS Chapter 44A
- **Design Professional:** Any architect, engineer, land surveyor or landscape architect registered under NCGS Chapter 83A, 89A, or 89C.
- All defined terms shall include the singular or plural as required by context.

**AGREEMENT:** For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and as an inducement to the purchase of the Property by a purchaser and/or the making of a loan by Lender secured by the Deed of Trust encumbering the Property and the issuance of a title insurance policy or policies by Company insuring priority of title to the Property over claims of lien for Labor, Services or Materials; Owner(s), first being duly sworn, depose, say and agree:

**1. Owner's Certifications:**

A. Owner certifies that (i) an MLA has been designated for this property and Owner has complied with all requirements of NCGS 44A 11.1 -11.2, including, but not limited to;

- a. Provision of contact information for MLA to Potential Lien Claimant(s) requesting such information in accordance with NCGS 44A -11.2,
- b. Appointment of MLA has been conspicuously and continuously posted on the Property in accordance with NCGS 44A -11.2,
- c. Identification to the MLA of any contractor in contract with Owner for Improvements to Property consisting of a single family residence in accordance with NCGS 44A - 11.2,
- d. Identification of all Design Professionals to the MLA that have been engaged in connection with the Improvements to the Property in accordance with NCGS 44A - 11.2;

(ii) there are no filed liens for Labor, Services or Materials for Improvements on the Property; (iii) Owner has not received any Notice of Claim of Lien upon Funds from any other person or entity; (iv) Owner has no knowledge of any other type of claim outstanding which would entitle the holder thereof to claim a lien on or interest in the Property including retention of title agreements or security interests for any materials, appliances, fixtures or furnishings placed upon or installed on the Property; (v) there are no Potential Lien Claimants whose first furnishing of Labor, Services or Materials is or may be **within the 15 Day Period except those listed in paragraph 1B below.** Any such matter in (ii) through (iv) shall be deemed not to exist if either the claimant has completed all Improvements of that claimant and been paid in full (and satisfactory evidence of such payment is provided herewith) or the claimant has waived or released the claimant's claim, provided that the waiver or release is in writing and such writing is acceptable to and is furnished to the Company.

B. The following are all Potential Lien Claimant(s) whose first furnishing of Labor, Services or Materials is or may be **within the 15 Day Period:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2. Reliance and Indemnification:**

This Agreement may be relied upon by the purchaser in the purchase of the Property, Lender to make a loan secured by the Deed of Trust encumbering the Property and by Company in issuance of a title insurance policy or policies insuring title to the Property without exception to matters certified in this Agreement. The provisions of this Agreement shall survive the disbursement of funds and closing of this transaction and shall be binding upon Owner and anyone claiming by, through or under them.

Owner agrees to indemnify and hold purchaser, Lender, and Company harmless of and from any and all loss, cost, damage and expense of every kind, and attorney's fees, costs and expenses, which the purchaser, Lender or Company shall or may incur or become liable for, directly or indirectly, as a result of reliance on the respective certifications of Owner made herein or in enforcement of the Company's rights hereunder.

**3. NCLTA Copyright and Entire Agreement:**

This Agreement and any attachments hereto represent the entire agreement between Owner and Company and no prior or contemporaneous agreement or understanding inconsistent herewith (whether oral or written) pertaining to such matters is effective.

THIS IS A COPYRIGHT FORM and any variances in the form provisions hereof must be specifically stated in the blank below and agreed to in writing by the Company.

\_\_\_\_\_

\_\_\_\_\_

No modification of this Agreement, and no waiver of any of its terms or conditions, shall be effective unless made in writing and approved by the Company.

**PROVIDING A FALSE AFFIDAVIT IS A CRIMINAL OFFENSE**

**EXECUTION**

<p style="text-align: right;">(SEAL)</p> <p>By: _____</p> <p>Printed or Typed Name/Title: _____</p> <p>By: _____</p> <p>Printed or Typed Name/Title: _____</p>	<p>State of _____ County of _____</p> <p>Signed and sworn to (or affirmed) before me this day by _____</p> <p>_____ [insert name(s) of principal(s)].</p> <p>Date: _____</p> <p>_____, Notary Public</p> <p>My Commission Expires: _____</p>	<p>(Affix Official Notarial Seal)</p>
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**EXHIBIT A**  
**OWNER AFFIDAVIT AND INDEMNITY AGREEMENT**  
**(MLA – CONSTRUCTION COMPLETED, CONTEMPLATED OR UNDER WAY)**

**WAIVER AND RELEASE OF LIENS  
(MLA APPOINTED)**

POTENTIAL LIEN CLAIMANT, \_\_\_\_\_, (hereinafter, "Potential Lien Claimant")

PROPERTY (Required): \_\_\_\_\_

(Insert street address or brief description and/or attach a description as Exhibit A.)

**DEFINITIONS:** The following capitalized terms as used in this Waiver and Release of Liens ("Waiver") shall have the following meanings:

- **Company:** any title insurance company issuing a title policy or policies insuring title to the Property in reliance on this Waiver.
- **Lender:** a lender making a loan secured by a deed of trust encumbering the Property.

**1. Certifications and Waiver:**

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and other benefits accruing, Potential Lien Claimant certifies that (i) he/she/it has signed this Waiver in the correct legal capacity and has the authority to sign this Waiver; (ii) such Potential Lien Claimant has not received any Notice of Claim of Lien upon Funds or Claim of Lien on Real Property from any other person or entity.

Potential Lien Claimant waives and releases any lien, claim of lien or other interest whatsoever which such Potential Lien Claimant or anyone claiming by, through, or under such Potential Lien Claimant might have in the Property. Potential Lien Claimant waives and releases any right or protection Potential Lien Claimant may have arising out of any Notice to Lien Agent that Potential Lien Claimant has filed relating to the Property in accordance with the provisions of NCGS 44A-11.2 for work performed prior to and after execution of this Waiver.

**2. Indemnification:**

Potential Lien Claimant agrees to indemnify and hold harmless the purchaser, Lender and Company of and from any and all loss, cost, damage and expense of every kind, and attorney's fees, costs and expenses, which the purchaser, Lender or Company shall or may incur or become liable for, directly or indirectly, as a result of reliance on the respective certifications of Potential Lien Claimant made herein or in enforcement of Company's rights hereunder without exception to matters certified in this Waiver.

**3. NCLTA Copyright :**

THIS IS A COPYRIGHT FORM and any variances in the form provisions hereof must be specifically stated in the blank below and agreed to in writing by the Company.

\_\_\_\_\_  
No modification of this Waiver, and no waiver of any of its terms or conditions, shall be effective unless made in writing and approved by the Company.

**POTENTIAL LIEN CLAIMANT:**

\_\_\_\_\_  
(SEAL)

By: \_\_\_\_\_  
Printed or Typed Name/Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed or Typed Name/Title: \_\_\_\_\_

DATE: \_\_\_\_\_

**SUBORDINATION OF LIENS**  
**(MLA APPOINTED)**  
**[Lender's Coverage Only]**

POTENTIAL LIEN CLAIMANT, \_\_\_\_\_, (hereinafter, "Potential Lien Claimant")

PROPERTY (Required): \_\_\_\_\_

**(Insert street address or brief description and/or attach a description as Exhibit A.)**

**DEFINITIONS:** The following capitalized terms as used in this Subordination of Liens ("Subordination") shall have the following meanings:

- **Company:** any title insurance company issuing a title policy or policies insuring title to the Property in reliance on this Waiver.
- **Lender:** a lender making a loan secured by a deed of trust encumbering the Property.
- **Deed of Trust:** The real estate security instrument(s) to be executed and recorded to encumber the Property in the currently contemplated transaction and any currently contemplated or future extensions, renewals, modifications, amendments or reinstatements thereof.
- **Labor, Services or Materials:** ALL labor, services, materials for which a lien can be claimed under NCGS Chapter 44A, Article 2, including but not limited to professional design services (including architectural, engineering, landscaping and surveying) and/or rental equipment.

**1. Certifications and Waiver:**

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and other benefits accruing, Potential Lien Claimant certifies that (i) he/she/it has signed this Subordination in the correct legal capacity and has the authority to sign this Subordination; (ii) Potential Lien Claimant has not received any Notice of Claim of Lien upon Funds or Claim of Lien on Real Property from any other person or entity.

Potential Lien Claimant hereby subordinates to the lien of the Deed of Trust such Potential Lien Claimant's right and that of anyone claiming by, through, or under such Potential Lien Claimant to file a lien for Labor, Services or Materials on the Property. Potential Lien Claimant agrees that the Deed of Trust shall constitute a superior and paramount lien for all amounts which have been or may hereafter be advanced under the Deed of Trust. Potential Lien Claimant further warrants that Potential Lien Claimant has not assigned and will not assign Potential Lien Claimant's claim for payment or right to perfect a potential lien on the Property and that Potential Lien Claimant has the right to execute this Subordination.

**2. Indemnification:**

Potential Lien Claimant agrees to indemnify and hold harmless, Lender and Company of and from any and all loss, cost, damage and expense of every kind, and attorney's fees, costs and expenses which Lender or Company shall or may incur or become liable for, directly or indirectly, as a result of reliance on the certifications of Potential Lien Claimant made herein or in enforcement of Lender's or Company's rights hereunder without exception to matters certified in this Subordination..

**3. NCLTA Copyright :**

THIS IS A COPYRIGHT FORM and any variances in the form provisions hereof must be specifically stated in the blank below and agreed to in writing by the Company.

No modification of this Subordination, and no waiver of any of its terms or conditions, shall be effective unless made in writing and approved by the Company.

<p>POTENTIAL LIEN CLAIMANT:</p> <p style="text-align: right;">_____ (SEAL)</p> <p>By: _____ Printed or Typed Name/Title: _____</p> <p>By: _____ Printed or Typed Name/Title: _____</p> <p>DATE: _____</p>
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