

**INSTRUCTIONS FOR COMPLETION OF
OWNER AFFIDAVIT AND INDEMNITY AGREEMENT
(MLA – Construction Completed, Contemplated or Underway)**

1. This Owner Affidavit and Indemnity Agreement (NCLTA Form 5) form is for use with any title insurer (the “Company”) for any transaction where:
 - (a) a Mechanics Lien Agent has been appointed for the Land in accordance with the applicable provisions of Ch. 44A of the NC General Statutes;
 - (b) owner and lender coverage for transactions affecting title to the Land(all capitalized terms as defined in the Agreement unless otherwise defined herein), a description of which must be included in this Agreement, where Improvements have been made to the Property by the Owner within the 120-Day Lien Period; and/or
 - (c) lender coverage only for priority of a deed of trust over liens for Labor, Services or Materials for current or immediately contemplated Improvements.

2. In addition to execution of this Agreement by the Owner, a properly completed Form 6 (MLA Lien Waiver) and/or Form 7 (MLA Subordination of Liens) must be obtained from any Potential Lien Claimant that (a) has been listed as a Potential Lien Claimant in the Owner’s NCLTA Form 5 who first provided Labor, Services or Materials to the Property within the last 15 days prior to closing; (b) has been identified as a Potential Lien Claimant on the Property at LiensNC.com; (c) has filed a Claim of Lien on Real Property; (d) is a Design Professional (including architects, engineers, surveyors and landscape architects) and who provided labor, services or materials prior to the appointment and posting of MLA; and (e) that has served a notice of claim of lien on funds pursuant to NCGS 44A-19.

3. Definition of Owner. For purposes of NCLTA Form 5 an Owner is a person (or entity) who is or has been the holder of any interest in the Land within the 120 day period prior to the recording of the deed or deed of trust to be insured; who has contracted for labor services or materials; and who is required by law to appoint an MLA. As examples only, an Owner may include:
 - (a) a seller of the Property or a borrower under a loan agreement where the Property will be used as security for the loan;
 - (b) a leasehold owner;
 - (c) a contract purchaser for whom an Improvement is or will be made.
 - (d) a subdivision developer who is not the builder and for whom infrastructure improvements continue to be made.

Note that if the transaction involves combined purchase and construction financing the contract purchaser must appoint a MLA and execute this Agreement as Owner. Every Owner within the 120 Day Lien Period must sign a proper lien affidavit form. However, this Agreement may not be the proper form for each Owner during the 120 Day Lien Period to sign depending on the circumstances.

4. Owner Certifications. In Paragraph 1.A. of the NCLTA Form 5 the Owner must certify that they have properly designated the MLA; provided the MLA contact information to those Potential Lien Claimants requesting such information; and properly identified certain Potential Lien Claimants in the appointment of the MLA in accordance with NCGS 44A-11.2. These Potential Lien Claimants include a custom contractor who has contracted with Owner to build a single-family residence on the Property to be occupied by the Owner as a residence and Design Professionals that have furnished their services prior to the posting of the MLA information on the Property. These Potential Lien Claimants must execute an NCLTA Form 6 or Form 7 (see instructions for NCLTA Forms 6 and 7).

5. Potential Lien Claimants first furnishing work with the 15 day period prior to the recording of the deed or deed of trust to be insured. Pursuant to Ch. 44A of the NC General Statutes a Potential Lien Claimant may file a Notice to Lien Agent and preserve priority of all rights and remedies under NCGS Ch. 44A as against the interest of a purchaser or lender provided the Potential Lien Claimant has filed its Notice to Lien Agent within 15 days of first furnishing of Labor, Services or Materials. In paragraph 1B the Owner is required to identify any Potential Lien Claimant who has or will first furnish Labor, Services or Materials within the 15 Day Period.

6. If, in reviewing the transaction, the closing attorney has questions about whether an MLA should be appointed for said transaction the attorney, should contact underwriting counsel for the Company to discuss the appointment of the MLA or lack thereof.

7. The closing attorney must *notify underwriting counsel for the Company prior to closing* regarding any filed Claim of Lien on Real Property or any Notice of Claim of Lien upon Funds known by the attorney or Owner to have been delivered to the Owner, whether on the Property or on any property in the state of North Carolina.

8. The name of the entity and the actual signer must be clearly determinable and the signature must be properly notarized.