

**AFFIDAVIT OF UNDERSTANDING AND INDEMNITY AND HOLD HARMLESS AGREEMENT
REGARDING COMPUTER DATA MIGRATION (VCAP to E-COURTS ODYSSEY PORTAL)
“(To be used for Purchase (with or without financing) and Refinance Transactions)”**

Land (Property Address): _____

Closing Attorney: _____

Date of Closing (settlement & disbursement): _____

Seller(s): _____

Buyer(s) (Proposed Insured Owner): _____

Owner(s): _____ (in case of refinance only)

Title Insurance Company (the Company): _____

Issuing Agent: _____

Title Insurance Commitment Number (the Commitment): _____

Other file number(s) or reference: _____

Recordable Documents: Deed, Deed of Trust, Assignment of Leases and Rents, UCC Financing Statement, Subordination, Lease (or memorandum thereof), DMV MVR-46G, or other documents to be recorded as a part of the real estate transaction (as applicable)

NOTE: Other defined terms are as defined in the ALTA® Commitment for Title Insurance (08-01-2016), ALTA® Commitment for Title Insurance (Effective 07-01-2021), ALTA® Short Form Commitment (12-01-17 TC 04-02-18), ALTA® Short Form Commitment (Effective 07-01-2021), the ALTA® Loan Policy (06-17-2006), ALTA® Loan Policy (Effective 07-01-2021), ALTA® Owner’s Policy (06-17-2006), ALTA® Owner’s Policy (Effective 07-01-2021), ALTA® Homeowner’s Policy (12-02-2013), ALTA® Homeowner’s Policy (Effective 07-01-2021), ALTA® Short Form Residential Loan Policy (12-03-12), and ALTA® Short Form Residential Loan Policy (Effective 07-01-2021).

The migration of computer data at the Clerk of Court’s Office in the County where the Land (or “Property Address”) stated above is located has significantly affected the ability of attorneys to search, locate court matters and resolve issues reliably. The migration has limited attorneys’ access to public records during the period immediately preceding the Date of Closing, and these limitations will continue through the date of recording the instruments referenced as Recordable Documents above. Filings or submissions of documents to the Clerk of Court’s Office by parties and attorneys have continued, but the final approval, acceptance and indexing of such documents may be delayed. In addition, the indexing systems of the prior VCAP system and the new Odyssey Portal are significantly different in substantial ways, causing variations in the search procedures required, results obtained and information available (including payoff calculations). Additionally, other, further issues are continuing to be identified and addressed. (All of these issues are referenced herein as “Migration Issues.”)

As a result, the ability to search and review filings in the Clerk of Court’s Office either has, or will be, impacted. The Company is willing to continue to insure Title to the Land for the Proposed Insured Owner and Proposed Insured Lender, if any, as identified in the Commitment up to Amount of Coverage stated therein through the ultimate recording date of the Recordable Documents, upon receipt of the acknowledgments and indemnifications herein.

NOW THEREFORE, due to the aforementioned Migration Issues, and as an inducement to the Closing Attorney to conduct settlement (including disbursement) and to the Company and/or Issuing Agent to issue policy or policies of title insurance with regard to the Land, as defined in the Commitment, the undersigned agree as follows:

Seller(s)/Owner(s) certify and affirm:

- (a) There are no pending civil actions, judgments, lis pendens, claims of lien, liens, encumbrances -- whether filed, submitted, imminently pending, or otherwise delivered (or to be delivered) to or as part of a file with the Clerk of Court's Office, and (whether or not indexed) estates, guardianships, or special proceedings affecting the Land, which are not being paid, adjusted or addressed as part of the current transaction in a manner approved by the Company.
- (b) All labor and materials used in construction or improvements, repairs or modifications to the Land have been paid for and there are now no unpaid bills for labor or material against the improvements or Land. The Sellers/Owners have received no notice of any mechanic liens claim. *The Company must be provided with affidavits, indemnities, lien waivers and subordinations satisfactory to the Company.*
- (c) **Sellers/Owners** have received no written notice of a proposed or pending special assessment or a pending taking of any portion of the Land by any governmental body. Sellers/Owners have no knowledge or notice that work has been or will be performed by any governmental body including but not limited to the installation of water or sewer lines or other utilities or for improvements such as paving or repaving of street or alleys or the installation of curbs and sidewalks.
- (d) **Sellers/Owners** agree to neither allow, nor take any action, following settlement that may result in any of the items or actions referred to in paragraph (a) above, or other objectionable matter which may adversely affect the Title to the Land, between the Commitment Date and **the last to occur of: the time of closing, updating, date and time of the recording of Recordable Documents and disbursement**, unless disclosed to and approved by the Company in writing prior to closing.
- (e) **Sellers/Owners** agree to immediately discharge, cancel, release or otherwise adequately address the same to the satisfaction of the Company and further agree to hold harmless and indemnify the Closing Attorney, the Issuing Agent and the Company against all claims, losses, liabilities, damages, expenses, costs and attorney's fees which may arise out of Sellers/Owners failure to promptly so remove, release, bond, or otherwise dispose of any such liens, encumbrances or objectionable matters affecting Title to the Land to the satisfaction of the Company.

Buyer(s) understand and agree:

- (a) Neither Closing Attorney, Issuing Agent nor the Company can provide an assurance as to the availability and reliability of search results of potential documents in the Clerk of Court's office which documents should constitute part of the Public Records affecting the Land, as defined in the Commitment.
- (b) Among other things, Buyers may not be able to refinance or sell the Land, obtain building permits, or demonstrate recorded ownership of and legal Title to, the Land until the date that the documents in the Clerk of Court's office are available and adequately, reliably searchable and locatable in the Public Records.

Seller(s)/Owner(s) and Buyer(s) acknowledge:

- (a) They have been expressly advised that North Carolina law, specifically the Good Funds Settlement Act (North Carolina General Statutes Chapter 45A) if the Land is residential property, requires recordation of the deed, deed of trust, or other title documents prior to disbursement of closing funds, for which they specifically include waiver of claims or penalties thereunder, below.
- (b) They expressly waive any claim, demand, or cause of action arising solely out of disbursement of closing funds by the Closing Attorney in reliance on the parties' joint instruction to disburse herein.
- (c) They expressly release the Closing Attorney, the Company, the Issuing Agent or other persons acting in reliance on such instruction and release from any claim, demand, or cause of action arising out of such disbursement.
- (d) By their joinder herein, they are authorizing and directing the closing of the sale of the Land and/or of its financing or refinancing and disbursement of funds, that they hereby shall be deemed to have irrevocably released the deed, deed of trust and other Recordable Documents which each party has respectively executed to Closing Attorney with the irrevocable authorization and instruction to cause

the Recordable Documents to be recorded as soon as the Closing Attorney is able to cause such recordation.

- (e) They expressly agree they will not execute or cause to be recorded any other deed, deed of trust, or other document of conveyance, encumbrance, or restriction regarding all or any portion of the Land, until and unless the Recordable Documents are properly recorded and indexed at the office of the register of deeds.
- (f) They expressly waive and renounce any right, claim, or demand to instruct the Closing Attorney to (i) recall or withdraw any Recordable Document, or (ii) otherwise not to record any Recordable Documents, or (iii) to cancel or rescind the closing.
- (g) NOTE: It is advisable to confirm that contractual matters arising out of the definition of "Closing," as it relates to recordation or filings in the Clerk of Court's office, are addressed in the contract between Buyer and Seller, *e.g.*, risk of loss or damage by fire or other casualty.

The undersigned solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of this Affidavit are true and that this Affidavit and Indemnity is executed in the order to induce the Closing Attorney to make and complete the settlement on the Land and to induce the Company, through the Issuing Agent, to issue its policy or policies of title insurance, insuring Title to the Land.

NCLTA Copyright and Entire Agreement: This Agreement and any attachments hereto represent the entire agreement between Seller, Buyer and/or 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:

CAUTION: 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.

Seller(s) / Owner(s):

Signature

Print

Signature

Print

SUBSCRIBED, SWORN TO, and acknowledged before me this _____ day of _____, 202__.

My Commission Expires: _____

NOTARY PUBLIC

Buyer(s):

Signature

Print

Signature

Print

SUBSCRIBED, SWORN TO, and acknowledged before me this _____ day of _____, 202__.

My Commission Expires: _____ NOTARY PUBLIC