

**OWNER/CONTRACTOR AFFIDAVIT, INDEMNITY AND LIEN SUBORDINATION AGREEMENT  
(CONSTRUCTION IN PROCESS OR IMMEDIATELY CONTEMPLATED)  
[LENDER COVERAGE ONLY]**

**PARTIES:** All parties identified in this section must execute this Agreement, including any Contractors required to sign Additional Signature Pages which must be attached hereto and are hereby incorporated herein and made a part hereof by reference, as applicable (herein the "Agreement").

Owner: Sports Menagerie Stadium, LLC, a Delaware limited liability company and Brookstown Development Partners, LLC, a North Carolina limited liability company

(NOTE: There can be more than one Owner if the Property has been owned by multiple parties or has been conveyed within the 120-Day Lien Period. A separate Agreement is required for each successive owner in the 120-Day Lien Period and the Contractors who have contracted or dealt with that Owner.)

Contractor(s): See attached.

(NOTE: There can be more than one Contractor contracting or dealing with an Owner. All Contractors must be named and execute this Agreement.

**Attached: ADDITIONAL SIGNATURE PAGE(S)** for all Contractors providing or who have provided Labor, Services or Materials within the 120-Day Lien Period.

**PROPERTY:** 8.561 acres known as Revised Lot 1 as shown on the Plat of Subdivision at the site of the Downtown Winston-Salem Baseball Stadium recorded in Plat Book 54, page 182, Forsyth County Registry.

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

**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:** Labor or professional design (including architectural, engineering, landscaping) or surveying services or materials or rental equipment for which a lien can be claimed under NCGS Chapter 44A, Article 2.
- **Contractor:** 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. (Note that services by architects, engineers, landscapers, surveyors, furnishers of rental equipment and contracts for construction on Property of Improvements are often provided before there is visible evidence of construction.) **(CAUTION: IF AN OWNER OF THE PROPERTY ALSO ACTS AS A CONTRACTOR, OR IF A CONTRACTOR IS ALSO AN AGENT OF AN OWNER, THEN ALL OTHER CONTRACTORS WHO ENTER INTO A CONTRACT WITH THAT OWNER/CONTRACTOR DIRECTLY OR THROUGH SUCH AGENT FOR IMPROVEMENTS TO THE PROPERTY MUST EXECUTE THIS AGREEMENT. IF A CONTRACTOR IS SUBSTANTIALLY RELATED TO THE OWNER, CONSULT UNDERWRITING COUNSEL WITH THE TITLE INSURER PRIOR TO CLOSING. DO NOT RELY ON CONSTRUCTION LICENSING DEFINITIONS.)**
- **120-Day Lien Period:** The 120 days immediately preceding the date of recordation of the Deed of Trust 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 parties herein.
- **Lender - INSERT NAME(S):** Bank of America, N.A., as Administrative Agent, 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.
- All defined terms shall include the singular or plural as required by context.

**AGREEMENT:** Construction of an Improvement to the Property is contemplated or is in process. Owner has obtained or will obtain a loan (including any transaction within the definition of Deed of Trust as defined above) made by Lender and secured by the Deed of Trust encumbering the Property which Deed of Trust is or will be recorded in the office of the Register of Deeds of the county in which the Property is located.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and as an inducement to 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 the priority of the lien of the Deed of Trust as an encumbrance on the Property without exception to liens for Labor, Services or Materials; Owner and Contractor(s), first being duly sworn, depose, say and agree, respectively:

**1. Owner's Certifications:**

Owner certifies that (i) every Contractor with whom Owner has dealt or contracted for Improvements within the 120-Day Lien Period is identified and a signatory herein, including every Contractor that may be providing punch list or warranty work post-closing pursuant to a contract for Labor, Services or Materials previously furnished; (ii) there are no other outstanding actual or potential liens (filed or unfiled) 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. Any such matter in (i) 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 (if Labor, Services or Materials are completed) or subordinated (if Labor, Services or Materials are not yet completed) the claimant's claim, provided that the subordination, waiver or release is in writing and such writing is acceptable to and is furnished to the Company.

**2. Contractor's Certifications - Subordination of Potential Liens:**

Each Contractor certifies that (i) such Contractor has signed this Agreement in the correct legal capacity and has the authority to sign this Agreement; (ii) there are no outstanding actual or potential liens (filed or unfiled) for Labor, Services or Materials for Improvements on the Property by anyone claiming by, through, or under such Contractor; and (iii) such Contractor has not received any Notice of Claim of Lien upon Funds or Claim of Lien on Real Property from any other person or entity.

In addition, each Contractor certifies that, to the best of such Contractor's knowledge and belief, (i) all parties known by such Contractor to have dealt or contracted with Owner for Improvements made within the 120-Day Lien Period or who such Contractor knows may be providing punch list or warranty work post-closing pursuant to Labor, Services or Materials previously furnished are identified herein (though such Contractor makes no representation regarding their waiver, subordination or payment unless claiming by through or under such Contractor) and (ii) such Contractor has no knowledge of any other type of claim outstanding by anyone claiming by, through, or under such Contractor 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.

Each undersigned Contractor hereby subordinates to the lien of the Deed of Trust such Contractor's right and that of anyone claiming by, through, or under such Contractor to file a lien for Labor, Services or Materials on the Property. Each Contractor 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. Each Contractor further warrants that such Contractor has not assigned and will not assign such Contractor's claim for payment or right to perfect a potential lien on the Property and that such Contractor has the right to execute this subordination.

**3. Reliance and Indemnification:**

This Agreement may be relied upon by 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 priority of the lien of the Deed of Trust on 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 Contractor (and anyone claiming by, through or under them).

Owner and Contractor agree to indemnify and hold 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 the Owner and Contractor made herein or in enforcement of the Company's rights hereunder.

*NOTE: Notwithstanding the foregoing, no party to this Agreement assumes liability for certifications made by another party.*

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

This Agreement and any attachments hereto represent the entire agreement between Contractor(s) 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 BY OWNER**

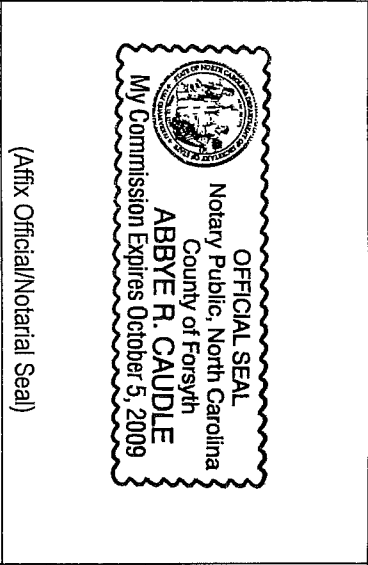
Sports Menagerie Stadium, LLC, a Delaware limited liability company (SEAL)  
 By: [Signature] (SEAL)  
 By: Billy D. Prim  
 Printed or Typed Name/Title: Manager

Brookstown Development Partners, LLC, a North Carolina limited liability company (SEAL)  
 By: [Signature] (SEAL)  
 By: Billy D. Prim  
 Printed or Typed Name/Title: Manager

State of North Carolina County of Forsyth  
 Signed and sworn to (or affirmed) before me this day by Billy D. Prim  
 [insert name(s) of principal(s)].  
 Date: September 9, 2009

Abbey R. Caudle  
 Notary Public  
 My Commission Expires: 10/5/09

**SEE ATTACHED NOTARY PAGE**



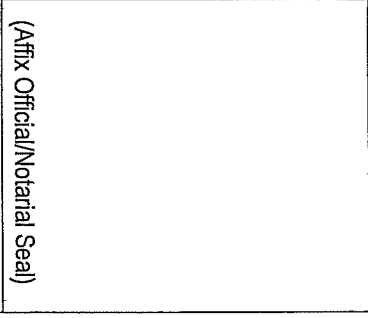
**EXECUTION BY SOLE CONTRACTOR**

**(THIS EXECUTION SECTION APPLIES ONLY IF UNDERSIGNED IS THE ONLY PERSON OR ENTITY CONTRACTING DIRECTLY WITH THE OWNER OF THE PROPERTY WITHIN THE 120-DAY LIEN PERIOD AND IS NOT THE OWNER OF THE PROPERTY. IF THIS CONTRACTOR IS SUBSTANTIALLY RELATED TO THE OWNER, CONSULT UNDERWRITING COUNSEL FOR TITLE INSURER/COMPANY PRIOR TO CLOSING.)**

By: \_\_\_\_\_ (SEAL)  
 By: \_\_\_\_\_  
 Printed or Typed Name/Title: \_\_\_\_\_

State of North Carolina County of \_\_\_\_\_  
 Signed and sworn to (or affirmed) before me this day by \_\_\_\_\_  
 [insert name(s) of principal(s)].  
 Date: \_\_\_\_\_

\_\_\_\_\_  
 Notary Public  
 My Commission Expires: \_\_\_\_\_



**NOTE: ATTACH ADDITIONAL SIGNATURE PAGE(S) IF THERE ARE MULTIPLE CONTRACTORS AS DEFINED HEREIN.**  
**NOTE: THE SIGNATURE BLOCKS PROVIDED ABOVE ARE NOT INTENDED TO BE COMPREHENSIVE.**  
**ALL CONTRACTORS WHO HAVE CONTRACTED OR DEALT WITH THE OWNER (as defined herein) MUST EXECUTE THIS AGREEMENT.**  
**ATTACH ADDITIONAL SIGNATURE PAGES AS NEEDED.**

State of North Carolina County of Forsyth  
Signed and sworn to (or affirmed) before me this day by

Billy D. Pinn

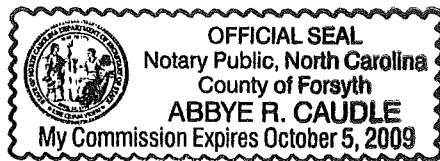
[insert name(s) of principal(s)].

Date: September 9, 2009

Abbye R. Caudle

Notary Public

My Commission Expires: 10/5/09



**OWNER/CONTRACTOR AFFIDAVIT, INDEMNITY AND LIEN SUBORDINATION AGREEMENT**  
**(CONSTRUCTION IN PROCESS OR IMMEDIATELY CONTEMPLATED)**  
**(ADDITIONAL SIGNATURE PAGE FOR CONTRACTORS)**

WITH RESPECT TO PROPERTY:

- DESCRIBED AS 8.561 acres known as Revised Lot 1 as shown on the Plat of Subdivision at the site of the Downtown Winston-Salem Baseball Stadium recorded in Plat Book 54, page 182, Forsyth County Registry.
- OWNED BY: Sports Menagerie Stadium, LLC, a Delaware limited liability company and Brookstown Development Partners, LLC, a North Carolina limited liability company

NAME OF CONTRACTOR	LABOR, SERVICES OR MATERIALS FURNISHED	SIGNATURE OF AUTHORIZED REPRESENTATIVE
_____	<u>Surveyor/Engineer</u>	_____ (SEAL)
_____	<u>Architect</u>	_____ (SEAL)
_____	<u>General Contractor</u>	_____ (SEAL)
_____	<u>Clearing/Grading</u>	_____ (SEAL)
_____	<u>Foundation/Masonry</u>	_____ (SEAL)
_____	<u>Framing</u>	_____ (SEAL)
_____	<u>Roofing</u>	_____ (SEAL)
_____	<u>Electrical</u>	_____ (SEAL)
_____	<u>Plumbing</u>	_____ (SEAL)
_____	<u>Insulation</u>	_____ (SEAL)
_____	<u>Paving</u>	_____ (SEAL)
_____	<u>HVAC</u>	_____ (SEAL)
_____	<u>Sheet rock</u>	_____ (SEAL)
_____	<u>Cabinetry</u>	_____ (SEAL)
_____	<u>Finish Carpentry</u>	_____ (SEAL)
_____	<u>Painting</u>	_____ (SEAL)
_____	<u>Materials</u>	_____ (SEAL)
_____	<u>Landscaping</u>	_____ (SEAL)
_____	Other: _____	_____ (SEAL)
_____	Other: _____	_____ (SEAL)
_____	Other: _____	_____ (SEAL)
_____	Other: _____	_____ (SEAL)

**NOTE: THE SIGNATURE BLOCKS PROVIDED ABOVE ARE NOT INTENDED TO BE COMPREHENSIVE.**  
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**ATTACH ADDITIONAL SIGNATURE PAGES AS NEEDED.**