

Mortgage Interest  
Relinquishment

NORTH CAROLINA GENERAL SPECIAL WARRANTY DEED

Excise Tax: \$0.00

Parcel Identifier No. \*\* Verified by \_\_\_\_\_ County on the \_\_\_ day of \_\_\_\_\_, 20\_\_  
By: \_\_\_\_\_

Mail/Box to: Grantee  
This instrument was prepared by:  
Brief description for the Index: \*\*

THIS DEED made this \_\_\_ day of \_\_\_\_\_, 20\*\*, by and between

GRANTOR	GRANTEE
**Husband and **Wife	**Wife/Husband
Mailing Address: ** **	Property and Mailing Address: ** **

This Deed is made as of this the \_\_\_ day of \_\_\_\_\_, 2012, by and between \*\* and \*\* with a mailing address of \*\* ("Grantor") and \*\* with a mailing address of \*\* ("Grantee").

For valuable consideration paid by the Grantee to the Grantor, the receipt and sufficiency of which is hereby acknowledged, the Grantor has and by these presents does hereby grant, bargain, sell, and convey unto

the Grantee in fee simple all of the certain lot or parcel of land (the "Premises") located in the City of \_\_\_\_,  
\_\_ Township, Wake County, North Carolina and more particularly described as follows:

\*\*

The property hereinabove described was acquired by Grantor by instrument recorded in Book \*\*, Page  
\*\* of the \*\*County Register of Deeds.

A map showing the above described property is recorded in Plat Book \*\*, Page \*\* of the \*\* County  
Register of Deeds.

All or a portion of the property herein conveyed \_\_\_\_\_ includes or \_\_\_\_ does not include the primary  
residence of a Grantor.

TO HAVE AND TO HOLD the Premises and all privileges and appurtenances thereto belonging to  
the Grantee in fee simple. Grantor hereby covenants with Grantee that Grantor has done nothing to impair  
such title as Grantor received, and he will warrant and defend the title against the lawful claims of all persons  
claiming by, under, or through him.

This conveyance is made pursuant to N.C.G.S. 39-13.3, N.C.G.S. 52-10 and N.C.G.S. 52-10.1 in order  
to vest title to the within described property solely in the Grantee herein, free and clear of any right, title and  
interest of the Grantor herein. (For purposes of this provision, the "Grantor" shall mean any Grantor other than  
the individual Grantee spouse in whom title is to remain vested herein). This conveyance is made after fair and  
reasonable disclosure of the property and financial obligations, both real and personal, of each spouse to the  
other, as between Grantee and Grantee's spouse Grantor.

For this purpose and with regard to the property and any interests and rights described herein or related  
thereto, by execution of this deed, the Grantor hereby waives, releases and quitclaims forever unto the Grantee  
(1) any and all right to share in the estate of the Grantee upon the Grantee's death as provided in N.C.G.S. 29-  
14, or pursuant to a Last Will and Testament or codicil thereto of the Grantee, (2) all and every right to elect to  
take a life estate in said real estate upon the death of the Grantee, (3) all and every right to an elective share in  
the estate of the Grantee pursuant to N.C.G.S. 30-3.1 *et seq*, (4) any and all rights arising out of any action for  
equitable distribution under N.C.G.S. 50-20, (5) any and all community property laws of any state, and (6) any  
and all other rights and interests in said real estate which the Grantor now has or may hereafter have or acquire  
arising out of or accruing to said Grantor by reason of past, current or future marital relationship with the  
Grantee.

The designation of the Grantor and the Grantee as used in this Deed includes the parties expressly  
named herein, their heirs, successors, and assigns and shall include the singular, plural, masculine, feminine, or  
neuter as required by context.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, as of the day and year first  
written above.

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

(SEAL)

\*\*

State of \_\_\_\_\_ - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

State of \_\_\_\_\_ - County of \_\_\_\_\_

I, the undersigned Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**§ 39-13.3. Conveyances between husband and wife.**

(a) A conveyance from a husband or wife to the other spouse of real property or any interest therein owned by the grantor alone vests such property or interest in the grantee.

(b) A conveyance of real property, or any interest therein, by a husband or a wife to such husband and wife vests the same in the husband and wife as tenants by the entirety unless a contrary intention is expressed in the conveyance.

(c) A conveyance from a husband or a wife to the other spouse of real property, or any interest therein, held by such husband and wife as tenants by the entirety dissolves such tenancy in the property or interest conveyed and vests such property or interest formerly held by the entirety in the grantee.

(d) The joinder of the spouse of the grantor in any conveyance made by a husband or a wife pursuant to the foregoing provisions of this section is not necessary.

(e) Any conveyance authorized by this section is subject to the provisions of G.S. 52-10 or 52-10.1, except that acknowledgment by the spouse of the grantor is not necessary. (1957, c. 598, s. 1; 1965, c. 878, s. 3; 1977, c. 375, s. 9.)

**§ 52-10. Contracts between husband and wife generally; releases.**

(a) Contracts between husband and wife not inconsistent with public policy are valid, and any persons of full age about to be married and married persons may, with or without a valuable consideration, release and quitclaim such rights which they might respectively acquire or may have acquired by marriage in the property of each other; and such releases may be pleaded in bar of any action or proceeding for the recovery of the rights and estate so released. No contract or release between husband and wife made during their coverture shall be valid to affect or change any part of the real estate of either spouse, or the accruing income thereof for a longer time than three years next ensuing the making of such contract or release, unless it is in writing and is acknowledged by both parties before a certifying officer.

(b) Such certifying officer shall be a notary public, or a justice, judge, magistrate, clerk, assistant clerk or deputy clerk of the General Court of Justice, or the equivalent or corresponding officers of the state, territory or foreign country where the acknowledgment is made. Such officer must not be a party to the contract.

(c) This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by a husband and wife, or their attorneys, may be construed to constitute a contract or release between such husband and wife. (1871-2, c. 193, s. 28; Code, s. 1836; Rev., s. 2108; C.S., s. 2516; 1959, c. 879, s. 12; 1965, c. 878, s. 1; 1977, c. 375, s. 2.)

**§ 52-10.1. Separation agreements.**

Any married couple is hereby authorized to execute a separation agreement not inconsistent with public policy which shall be legal, valid, and binding in all respects; provided, that the separation agreement must be in writing and acknowledged by both parties before a certifying officer as defined in G.S. 52-10(b). Such certifying officer must not be a party to the contract. This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by a husband and wife, or their attorneys, may be construed to constitute a separation agreement between such husband and wife. (1965, c. 803; 1977, c. 375, s. 3.)

**§ 29-14. Share of surviving spouse.**

- (a) Real Property. – The share of the surviving spouse in the real property is:
- (1) If the intestate is survived by only one child or by any lineal descendant of only one deceased child, a one-half undivided interest in the real property;
  - (2) If the intestate is survived by two or more children, or by one child and any lineal descendant of one or more deceased children or by lineal descendants of two or more deceased children, a one-third undivided interest in the real property;
  - (3) If the intestate is not survived by a child, children or any lineal descendant of a deceased child or children, but is survived by one or more parents, a one-half undivided interest in the real property;
  - (4) If the intestate is not survived by a child, children or any lineal descendant of a deceased child or children, or by a parent, all the real property.
- (b) Personal Property. – The share of the surviving spouse in the personal property is:
- (1) If the intestate is survived by only one child or by any lineal descendant of only one deceased child, and the net personal property does not exceed thirty thousand dollars (\$30,000) in value, all of the personal property; if the net personal property exceeds thirty thousand dollars (\$30,000) in value, the sum of thirty thousand dollars (\$30,000) plus one half of the balance of the personal property;
  - (2) If the intestate is survived by two or more children, or by one child and any lineal descendant of one or more deceased children, or by lineal descendants of two or more deceased children, and the net personal property does not exceed thirty thousand dollars (\$30,000) in value, all of the personal property; if the net personal property exceeds thirty thousand dollars (\$30,000) in value, the sum of thirty thousand dollars (\$30,000) plus one third of the balance of the personal property;
  - (3) If the intestate is not survived by a child, children, or any lineal descendant of a deceased child or children, but is survived by one or more parents, and the net personal property does not exceed fifty thousand dollars (\$50,000) in value, all of the personal property; if the net personal property exceeds fifty thousand dollars (\$50,000) in value, the sum of fifty thousand dollars (\$50,000) plus one half of the balance of the personal property;
  - (4) If the intestate is not survived by a child, children, or any lineal descendant of a deceased child or children, or by a parent, all of the personal property.
- (c) When an equitable distribution of property is awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent, the share of the surviving spouse determined under subsections (a) and (b) of this section shall be first determined as though no property had been awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent, and then reduced by the net value of the marital estate awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent. (1959, c. 879, s. 1; 1979, c. 186, s. 1; 1981, c. 69; 1995, c. 262, s. 3; 2001-364, s. 6.)

Article 1A.  
Elective Share.

**§ 30-3.1. Right of elective share.**

(a) Elective Share. – The surviving spouse of a decedent who dies domiciled in this State has a right to claim an "elective share", which means an amount equal to (i) the applicable share of the Total Net Assets, as defined in G.S. 30-3.2(4), less (ii) the value of Net Property Passing to Surviving Spouse, as defined in G.S. 30-3.2(2c). The applicable share of the Total Net Assets is as follows:

- (1) If the decedent is not survived by any lineal descendants, one-half of the Total Net Assets.
- (2) If the decedent is survived by one child, or lineal descendants of one deceased child, one-half of the Total Net Assets.
- (3) If the decedent is survived by two or more children, or by one or more children and the lineal descendants of one or more deceased children, or by the lineal descendants of two or more deceased children, one-third of the Total Net Assets.

(b) Reduction of Applicable Share. – In those cases in which the surviving spouse is a second or successive spouse, and the decedent has one or more lineal descendants surviving who are not lineal descendants of the decedent's marriage to the surviving spouse but there are no lineal descendants surviving by the surviving spouse, the applicable share as determined in subsection (a) of this section shall be reduced by one-half.

(c) Repealed by Session Laws 2009-368, s. 1, effective August 27, 2009, and applicable to decedents dying on or after October 1, 2009. (2000-178, s. 2; 2003-296, s. 1; 2009-368, s. 1.)



**§ 50-20. Distribution by court of marital and divisible property.**

(a) Upon application of a party, the court shall determine what is the marital property and divisible property and shall provide for an equitable distribution of the marital property and divisible property between the parties in accordance with the provisions of this section.

(b) For purposes of this section:

- (1) "Marital property" means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property or divisible property in accordance with subdivision (2) or (4) of this subsection. Marital property includes all vested and nonvested pension, retirement, and other deferred compensation rights, and vested and nonvested military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act. It is presumed that all property acquired after the date of marriage and before the date of separation is marital property except property which is separate property under subdivision (2) of this subsection. This presumption may be rebutted by the greater weight of the evidence.
- (2) "Separate property" means all real and personal property acquired by a spouse before marriage or acquired by a spouse by bequest, devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance. The increase in value of separate property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which would terminate on transfer shall be considered separate property.
- (3) "Distributive award" means payments that are payable either in a lump sum or over a period of time in fixed amounts, but shall not include alimony payments or other similar payments for support and maintenance which are treated as ordinary income to the recipient under the Internal Revenue Code.
- (4) "Divisible property" means all real and personal property as set forth below:
  - a. All appreciation and diminution in value of marital property and divisible property of the parties occurring after the date of separation and prior to the date of distribution, except that appreciation or diminution in value which is the result of postseparation actions or activities of a spouse shall not be treated as divisible property.
  - b. All property, property rights, or any portion thereof received after the date of separation but before the date of distribution that was acquired as a result of the efforts of either spouse during the marriage and before the date of separation, including, but not limited to, commissions, bonuses, and contractual rights.
  - c. Passive income from marital property received after the date of separation, including, but not limited to, interest and dividends.
  - d. Increases and decreases in marital debt and financing charges and interest related to marital debt.

(c) There shall be an equal division by using net value of marital property and net value of divisible property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property and divisible property equitably. The court shall consider all of the following factors under this subsection:

- (1) The income, property, and liabilities of each party at the time the division of property

is to become effective.

- (2) Any obligation for support arising out of a prior marriage.
  - (3) The duration of the marriage and the age and physical and mental health of both parties.
  - (4) The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects.
  - (5) The expectation of pension, retirement, or other deferred compensation rights that are not marital property.
  - (6) Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the party not having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage earner or homemaker.
  - (7) Any direct or indirect contribution made by one spouse to help educate or develop the career potential of the other spouse.
  - (8) Any direct contribution to an increase in value of separate property which occurs during the course of the marriage.
  - (9) The liquid or nonliquid character of all marital property and divisible property.
  - (10) The difficulty of evaluating any component asset or any interest in a business, corporation or profession, and the economic desirability of retaining such asset or interest, intact and free from any claim or interference by the other party.
  - (11) The tax consequences to each party, including those federal and State tax consequences that would have been incurred if the marital and divisible property had been sold or liquidated on the date of valuation. The trial court may, however, in its discretion, consider whether or when such tax consequences are reasonably likely to occur in determining the equitable value deemed appropriate for this factor.
  - (11a) Acts of either party to maintain, preserve, develop, or expand; or to waste, neglect, devalue or convert the marital property or divisible property, or both, during the period after separation of the parties and before the time of distribution.
  - (11b) In the event of the death of either party prior to the entry of any order for the distribution of property made pursuant to this subsection:
    - a. Property passing to the surviving spouse by will or through intestacy due to the death of a spouse.
    - b. Property held as tenants by the entirety or as joint tenants with rights of survivorship passing to the surviving spouse due to the death of a spouse.
    - c. Property passing to the surviving spouse from life insurance, individual retirement accounts, pension or profit-sharing plans, any private or governmental retirement plan or annuity of which the decedent controlled the designation of beneficiary (excluding any benefits under the federal social security system), or any other retirement accounts or contracts, due to the death of a spouse.
    - d. The surviving spouse's right to claim an "elective share" pursuant to G.S. 30-3.1 through G.S. 30-33, unless otherwise waived.
  - (12) Any other factor which the court finds to be just and proper.
- (c1) Notwithstanding any other provision of law, a second or subsequent spouse acquires no interest in the marital property and divisible property of his or her spouse from a former marriage until a final determination of equitable distribution is made in the marital property and divisible property of the spouse's former marriage.
- (d) Before, during or after marriage the parties may by written agreement, duly executed and acknowledged in accordance with the provisions of G.S. 52-10 and 52-10.1, or by a written agreement valid in the jurisdiction where executed, provide for distribution of the marital property or divisible

property, or both, in a manner deemed by the parties to be equitable and the agreement shall be binding on the parties.

(e) Subject to the presumption of subsection (c) of this section that an equal division is equitable, it shall be presumed in every action that an in-kind distribution of marital or divisible property is equitable. This presumption may be rebutted by the greater weight of the evidence, or by evidence that the property is a closely held business entity or is otherwise not susceptible of division in-kind. In any action in which the presumption is rebutted, the court in lieu of in-kind distribution shall provide for a distributive award in order to achieve equity between the parties. The court may provide for a distributive award to facilitate, effectuate or supplement a distribution of marital or divisible property. The court may provide that any distributive award payable over a period of time be secured by a lien on specific property.

(f) The court shall provide for an equitable distribution without regard to alimony for either party or support of the children of both parties. After the determination of an equitable distribution, the court, upon request of either party, shall consider whether an order for alimony or child support should be modified or vacated pursuant to G.S. 50-16.9 or 50-13.7.

(g) If the court orders the transfer of real or personal property or an interest therein, the court may also enter an order which shall transfer title, as provided in G.S. 1A-1, Rule 70 and G.S. 1-228.

(h) If either party claims that any real property is marital property or divisible property, that party may cause a notice of lis pendens to be recorded pursuant to Article 11 of Chapter 1 of the General Statutes. Any person whose conveyance or encumbrance is recorded or whose interest is obtained by descent, prior to the filing of the lis pendens, shall take the real property free of any claim resulting from the equitable distribution proceeding. The court may cancel the notice of lis pendens upon substitution of a bond with surety in an amount determined by the court to be sufficient provided the court finds that the claim of the spouse against property subject to the notice of lis pendens can be satisfied by money damages.

(i) Upon filing an action or motion in the cause requesting an equitable distribution or alleging that an equitable distribution will be requested when it is timely to do so, a party may seek injunctive relief pursuant to G.S. 1A-1, Rule 65 and Chapter 1, Article 37, to prevent the disappearance, waste or conversion of property alleged to be marital property, divisible property, or separate property of the party seeking relief. The court, in lieu of granting an injunction, may require a bond or other assurance of sufficient amount to protect the interest of the other spouse in the property. Upon application by the owner of separate property which was removed from the marital home or possession of its owner by the other spouse, the court may enter an order for reasonable counsel fees and costs of court incurred to regain its possession, but such fees shall not exceed the fair market value of the separate property at the time it was removed.

(i1) Unless good cause is shown that there should not be an interim distribution, the court may, at any time after an action for equitable distribution has been filed and prior to the final judgment of equitable distribution, enter orders declaring what is separate property and may also enter orders dividing part of the marital property, divisible property or debt, or marital debt between the parties. The partial distribution may provide for a distributive award and may also provide for a distribution of marital property, marital debt, divisible property, or divisible debt. Any such orders entered shall be taken into consideration at trial and proper credit given.

Hearings held pursuant to this subsection may be held at sessions arranged by the chief district court judge pursuant to G.S. 7A-146 and, if held at such sessions, shall not be subject to the reporting requirements of G.S. 7A-198.

(j) In any order for the distribution of property made pursuant to this section, the court shall make written findings of fact that support the determination that the marital property and divisible property has been equitably divided.

(k) The rights of the parties to an equitable distribution of marital property and divisible property are a species of common ownership, the rights of the respective parties vesting at the time of the parties' separation.

- (1) (1) A claim for equitable distribution, whether an action is filed or not, survives the death of a spouse so long as the parties are living separate and apart at the time of death.
- (2) The provisions of Article 19 of Chapter 28A of the General Statutes shall be applicable to a claim for equitable distribution against the estate of the deceased spouse.
- (3) Any claim for equitable distribution against the surviving spouse made by the estate of the deceased spouse must be filed with the district court within one year of the date of death of the deceased spouse or be forever barred. (1981, c. 815, s. 1; 1983, c. 309; c. 640, ss. 1, 2; c. 758, ss. 1-4; 1985, c. 31, ss. 1-3; c. 143; c. 660, ss. 1-3; 1987, c. 663; c. 844, s. 2; 1991, c. 635, ss. 1, 1.1; 1991 (Reg. Sess., 1992), c. 960, s. 1; 1995, c. 240, s. 1; c. 245, s. 2; 1997-212, ss. 2-5; 1997-302, s. 1; 1998-217, s. 7(c); 2001-364, ss. 2, 3; 2002-159, s. 33; 2003-168, ss. 1, 2; 2005-353, s. 1.)