

ESCROW HOLDBACK AGREEMENT ADDENDUM

This **Escrow Holdback Agreement Addendum** (this "Agreement") is entered into as of _____ day of _____, 20____ (the "Effective Date") by:

Buyer: _____ (the "Buyer"), located at _____, City of _____, State of _____, _____, and

Seller: _____ (the "Seller"), located at _____, City of _____, State of _____, _____. Each Buyer and Seller may be referred to in this Agreement individually as a "Party" and collectively as "Parties".

WHEREAS

- a. The Parties have entered into _____ [*Title of the original purchase agreement*], dated as of _____ day of _____, 20____ (the "Primary Agreement").
- b. The Parties have appointed _____, located at _____, City of _____, State of _____, _____ (the "Escrow Agent").
- c. To induce the Buyer to enter into the Primary Agreement, the Parties agree to hold back and place in escrow, the Escrowed Amount (defined herein), pending performance of certain obligations hereto, subject to the terms and conditions hereof.

The Parties agree as follows:

- 1. **Appointment of Escrow Agent.** The Buyer and the Seller hereby appoint _____ as escrow agent in accordance with the terms and conditions set forth herein, and the Escrow Agent hereby consents to such appointment. The Parties agree that they have obtained written consent from the Escrow Agent.
- 2. **Escrow Agent Fee.** In consideration of the services provided hereunder by the Escrow Agent, the Parties agree to pay Escrow Agent a fixed fee of _____ [*Escrow agent fee*]



amount in words] (_____) [*Escrow agent fee amount in numbers*] (the “Escrow Agent Fee”). The Escrow Agent Fee shall be payable upon execution and fulfillment of all obligations of the Escrow Agent contained herein.

- Escrow Agent shall have no right to deduct any other fee and/or expenses from the Escrowed Amount.
 - Escrow Agent may deduct the Escrow Agent Fee and/or related expenses from the Escrowed Amount after prior written consent from the Buyer.
3. **Bank Account** . The Escrow Agent shall set up or allocate an interest accruing bank account with a federal and state regulated bank (the “*Bank Account*”). The purpose of such Bank Account shall be to hold and disburse the Escrowed Amount, according to the terms laid out in this Agreement.
4. **Escrow Agent’s Duties and Obligations**. Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement and no duties shall be implied in any manner. The Escrow Agent is not conferred with any fiduciary or discretionary duties in this arrangement. The Escrow Agent shall have liability under and no duty to inquire the provisions of any agreement other than this Agreement. Escrow Agent’s only responsibility shall be the safekeeping and disbursement of the Escrowed Amount in accordance with the terms of this Agreement. The Escrow Agent shall not be liable for any action taken or omitted by it in good faith except to the extent that a court of competent jurisdiction determines that the Escrow Agent’s gross negligence or willful misconduct was the primary cause of any loss to either party.
5. **Escrowed Amount**. At the closing, the Buyer shall deposit with the Escrow Agent a sum of _____ [*Escrowed amount in words*] (_____) [*Escrowed amount in numbers*]) (the “Escrowed Amount”).
6. **Disposition of Escrowed Amount**. The Escrow Agent shall hold and dispose of the Escrowed Amount in accordance with the terms contained herein, upon receipt of written notice by the Parties stating that a part or all of the conditions for disposition have been satisfied.
7. **Seller’s Duties and Obligations**. The Buyer and the Seller agree that the Escrowed Amount shall be held by the Escrow Agent until all of the following milestones (“*Seller’s Duties*”) are completed and fulfilled by the Seller. The Parties agree that the Seller shall receive the Escrowed Amount upon completion of all milestones a prorated Escrowed Amount, corresponding to each milestone, as follows:



Escrowed Amount	Milestone
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____
\$ _____	_____

8. **Release of Escrowed Amount.** Upon receipt of joint written instructions of the Buyer and Seller, the Escrow Agent shall release to the Seller, the Escrowed Amount, or any portion thereof, in accordance with the provisions contained herein. Such joint instructions shall not direct the Escrow Agent to release an amount inconsistent with milestones in Section 7 of this Agreement.

9. **Notices.** All notices, instructions and communications to be given under this Agreement or relating to the transactions contemplated herein shall be in writing and be deemed to be delivered and received if delivered to the following addresses to the party concerned:

a. If to the Escrow Agent:

E-mail: _____

b. If to the Buyer:

E-mail: _____

c. If to the Seller:

E-mail: _____

10. **Governing Law.** All disputes between the parties related to this Agreement, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the internal



laws of the State of _____, applicable to contracts executed in and to be performed entirely within the State of _____. The parties related to this Agreement hereto hereby irrevocably submit to the jurisdiction of the State of _____.

11. **Counterparts.** This Agreement may be executed in one (1) or more counterparts and delivered by mail or e-mail mentioned in this Agreement, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart.

12. **Interest Accrued.** Any interest accrued on the Escrowed Amount shall be remitted to the Buyer.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

SIGNATURES

Seller Signature

Seller Name

Seller Name

Representative Signature

Representative Name and Title

Buyer Signature

Buyer Name

Buyer Name

Representative Signature

Representative Name and Title



Escrow Agent Signature

Escrow Agent Name

