

ESCROW HOLDBACK ADDENDUM

THIS ESCROW HOLDBACK ADDENDUM (this “**Addendum**”) is made and entered into as of _____, and is by and among _____, with a mailing address of _____ (“**Buyer**”), _____, with a mailing address of _____ (“**Seller**”), and _____, with a mailing address of _____ (“**Escrow Agent**”).

RECITALS

WHEREAS, Buyer and Seller are parties to that certain contract or agreement dated as of _____ (the “**Agreement**”) for the purchase and sale of real estate, for the property known by street address as _____ (the “**Property**”)

WHEREAS, upon the terms and conditions set forth in this Addendum, Buyer and Seller desire to establish an escrow holdback in connection with the closing of the purchase and sale of the Property pursuant to the Agreement (the “**Closing**”), and Escrow Agent is willing to hold the escrow for such purpose.

NOW, THEREFORE, in consideration of the foregoing, and for other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Escrow Holdback. Buyer and Seller agree that upon the Closing, \$ _____ of the purchase price under the Agreement (the “**Holdback Amount**”) shall not be released to Seller but shall instead be deposited into an escrow account with Escrow Agent. Escrow Agent shall not comingle the Holdback Amount with any other funds.

The Holdback Amount:

- shall be invested by Escrow Agent in an interest-bearing account
- shall not be invested by Escrow Agent in an interest-bearing account

2. Escrow Agent’s Fee. For serving as the escrow agent hereunder, Escrow Agent shall be paid fee of \$ _____ upon the Closing.

The Escrow Agent’s fee shall be paid:

- by Buyer
- by Seller
- by Buyer and Seller equally
- other: Describe. _____



3. Escrow Disbursement and Release Conditions. The Holdback Amount (together with the interest thereon, if any) shall be disbursed as follows, upon the occurrence of the following:

Upon written and unequivocal approval to release and disburse, executed by or on behalf of both Buyer and Seller. Such writing shall instruct Escrow Agent as to which party shall receive the Holdback Amount.

Upon the following date: _____ . In such event, the Holdback Amount shall be released and disbursed to _____.

Upon occurrence of the following conditions:

_____.

In such event, the parties shall instruct Escrow Agent as to which party shall receive the Holdback Amount

In all cases regarding the disbursement and release of the Holdback Amount, Buyer and Seller shall act in good faith and in a commercially reasonable manner.

4. No Liability of Escrow Agent. As a material inducement to Escrow Agent's willingness to enter into this Addendum and serve as the escrow agent hereunder, Buyer and Seller each agree that Escrow Agent shall have no liability or obligation whatsoever with respect to the Holdback Amount, except for a loss of such funds caused by Escrow Agent's willful misconduct or gross negligence. Escrow Agent's sole responsibility shall be for the safekeeping, investment (if required pursuant to Section 1 above), and disbursement of the Holdback Amount in accordance with the terms of this Addendum. Escrow Agent shall have no implied duties or obligations hereunder, and shall not be charged with knowledge or notice of any fact or circumstance not specifically set forth herein or in a written notice provided hereunder. Escrow Agent shall have the right to rely upon any statement or assertion made in an instrument provided by or on behalf of a party hereunder to Escrow Agent. In no event shall Escrow Agent be liable for incidental, indirect, special, consequential, or punitive damages. Escrow Agent shall not be obligated to take any legal action or commence any proceeding in connection with the Holdback Amount, or to appear in, prosecute or defend any such legal action or proceeding. Without limiting the generality of the foregoing, Escrow Agent shall not be responsible for or required to enforce any of the terms or conditions of the Agreement or any other instrument or agreement between Buyer and Seller with respect to the Property. Buyer and Seller each hereby agree to indemnify, defend and hold harmless Escrow Agent for any and all matters, claims, and liabilities under this Addendum, except for a loss of the Holdback Amount caused by Escrow Agent's willful misconduct or gross negligence.

5. Interpleader Action. In the event of a dispute under this Addendum, Escrow Agent shall have the right to file an interpleader action in accordance with applicable law, and to deposit the Holdback Amount into the registry of the court. Escrow Agent shall be indemnified and held harmless for its legal fees and costs of such action.



6. Miscellaneous. This Addendum shall be governed by, and construed in accordance with, the laws of the jurisdiction governing the Agreement. This Addendum may be executed simultaneously or in counterparts, each of which counterpart shall be deemed an original, but all of which together shall constitute one and the same Addendum. Facsimile signatures and/or electronically transmitted pdf files of this Addendum are valid and carry the same effect as an original signature. This Addendum shall be deemed a part of the Agreement as if fully set forth therein. Any notice provided under this Addendum shall be provided in the same manner and under the same terms as set forth in the Agreement; provided, however, that any notice to Escrow Agent shall be provided to the address of Escrow Agent set forth above.



IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date set forth above.

BUYER:

SELLER:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

ESCROW AGENT:

By: _____

Name: _____

Title: _____

