

ESCROW AGREEMENT

This ESCROW AGREEMENT (this “Escrow Agreement”) is entered into as of [Date], 202_ by and among [-----], a [State] corporation, [-----], a [State] corporation (the “Company”), [Stockholder Representative], as agent and representative of the stockholders of the Company (the “Stockholder Representative”), and [Escrow Agent], as escrow agent (the “Escrow Agent”).

RECITALS

A. [Merger Sub], a [State] corporation and wholly owned subsidiary of [-----] (the “Merger Sub”), the Company, and the common stockholders of the Company have entered into an Agreement and Plan of Merger dated as of [Date] (the “Merger Agreement”), pursuant to which [-----] will acquire the Company through the merger of Merger Sub with and into the Company (the “Merger”).

B. Pursuant to the Merger Agreement, the common stockholders of the Company (the “Stockholders”) will receive shares of the Company and \$[dollar amount] in cash, a portion of which is to be deposited into the escrow fund provided for hereby. The Merger Agreement provides that the escrow fund provided for hereby will secure the indemnification obligations of the Stockholders to [-----], the surviving corporation in the Merger (the “Surviving Corporation”) and each their respective officers, directors and affiliates under the Merger Agreement, on the terms and conditions set forth herein. The Escrow Fund must be delivered to the Escrow Agent at the effective time of the Merger.

C. The parties desire to establish the terms and conditions pursuant to which the Escrow Fund (as defined in Section 3(a) of this Escrow Agreement) will be established and maintained and the procedure by which claims for indemnification may be made against the Escrow Fund.

D. Capitalized terms used in this Escrow Agreement and not otherwise defined shall have the meanings given those terms in the Merger Agreement.

AGREEMENT

The parties to this Escrow Agreement hereby agree as follows:

1. **Consent of Stockholders.** By execution of the Investor Questionnaire, each Stockholder has (a) agreed to be bound by the indemnification obligations of the Stockholders set forth in Article [Number] of the Merger Agreement, (b) consented to the establishment of the Escrow Fund (as defined below) to secure the indemnification obligations of the Stockholders under Section [Number] of the Merger Agreement, (c) irrevocably authorized and appointed the Stockholder Representative, with full power of substitution and resubstitution, as his or her representative and true and lawful attorney-in-fact and agent, to act in his, her or its name, place and stead as contemplated by Article [Number] of the Merger Agreement and this Escrow Agreement, and to execute in his, her or its name, and on behalf of such Stockholder, this Escrow Agreement and any other agreement, certificate, instrument and document to be delivered by the Stockholders in connection with Article [Number] of the Merger Agreement and the Escrow Agreement.

2. **Appointment of Escrow Agent.** The Escrow Agent is hereby appointed to act, and the Escrow Agent agrees to act, as escrow agent under this Escrow Agreement.

3. **Escrow and Indemnification.**

(a) **Escrow Fund.** The escrow fund (the “Escrow Fund”) shall consist of the following:

(i) \$[dollar amount] in US Funds (the “Indemnification Escrow Funds”), which Funds shall be deposited into the Escrow Fund at the Effective Time;

(ii) [number] shares of the Company

The Escrow Agent shall have no duty to confirm or verify the sufficiency, appropriateness, or accuracy of any amount of Indemnification Escrow Funds deposited with it under this Escrow Agreement.

(b) **Pledge.**

(i) At the Effective Time (in the case of the Indemnification Escrow Funds issued at the Effective Time) or at the time of issuance (in the case of any New Funds), the Indemnification Escrow Funds shall be issued to and beneficially owned by the Stockholders, on a pro rata basis according to each such Stockholder’s proportionate ownership interest in the total amount of funds \$[dollar amount] Common Stock issued at the Effective Time (in the case of the Indemnification Escrow Funds issued at the Effective Time) or at the time of issuance (in the case of any New Funds). At the Effective Time (in the case of the Indemnification Escrow Funds issued at the Effective Time) or at the time of issuance (in the case of any New Funds), the Stockholders shall be deemed to have pledged such Indemnification Escrow Funds to [-----] and shall deliver such Indemnification Escrow Funds to the Escrow Agent, and such Indemnification Escrow Funds shall be held by the Escrow Agent on [-----]'s behalf in accordance with the terms and conditions of this Escrow Agreement. The Company shall deliver to [-----] appropriate stock powers from the Stockholders endorsed in blank and such documentation as [-----] may reasonably request to carry out the purposes of this Escrow Agreement. So long as any Indemnification Escrow Funds are held by the Escrow Agent under this Escrow Agreement, Buyer shall have, and the Stockholders shall be deemed to have granted to [-----], effective as of the Effective Time (in the case of the Indemnification Escrow Funds issued at the Effective Time) or at the time of issuance (in the case of any New Funds), a perfected, first-priority security interest in such Funds (subject only to the security interest of the Stockholder Representative and the Escrow Agent, as described in Sections 7 and 9(f), respectively, of this Escrow Agreement), to secure payment of amounts payable by the Stockholders in respect of indemnification claims made under Section [Number] of the Merger Agreement and this Escrow Agreement. The Escrow Fund shall not be subject to any lien, attachment, trustee process or any other judicial process of any creditor of any party to this Escrow Agreement (except for the security interests of the Stockholders’ Representative and Escrow Agent, as provided in this Escrow Agreement). The Escrow Agent agrees to accept delivery of and hold the Indemnification Escrow Funds subject to the terms and conditions of this Escrow Agreement.

(c) **Indemnification.**

(i) Subject to the terms and conditions of Article [Number] of the Merger Agreement, the Stockholders shall indemnify and hold each of the Indemnified Parties harmless from and against, and shall reimburse the Indemnified Parties for, any and all Losses (as defined in Section [Number] of the Merger Agreement) incurred by such Indemnified Party that are indemnifiable under Article [Number] of the Merger Agreement.

4. **Administration of Escrow Fund.** The Escrow Agent shall administer the Escrow Fund as follows:

(a) **Duties of Escrow Agent.** The Escrow Agent shall (i) hold and safeguard the Escrow Fund during the period beginning on the date of this Agreement and ending 12 months after the date hereof (the “Escrow Period”), (ii) treat the Escrow Fund in accordance with the terms of this Escrow Agreement and not as the property of [-----] and (iii) hold and dispose of the Escrow Fund only in accordance with the terms of this Escrow Agreement.

(b) **Claims for Indemnification.** Upon receipt by the Stockholder Representative and the Escrow Agent at any time on or before the last day of the Escrow Period (except as provided in Section 6 of this Escrow Agreement) of a certificate signed by any officer of [-----] (an “Officer’s Certificate”):

(i) stating that an Indemnified Party has paid indemnifiable Losses that, on an aggregate basis with all prior Losses, exceed \$[Amount], and

(ii) specifying in reasonable detail the claiming Indemnified Party, each individual item of Losses included in the amount so stated, the date each such item was paid or incurred, the nature of the breach of representation or warranty or other claim resulting in such indemnifiable Losses and the number of Indemnification Escrow Funds requested to be paid to [-----], the Escrow Agent shall, subject to the provisions of Sections 4(c) and (d) below, transfer to [-----] out of the Escrow Fund, within 30 days of receipt by the Escrow Agent of the Officer’s Certificate the number of Indemnification Escrow Funds set forth on such Officer’s Certificate, which shall have a value equal to the full amount of such indemnified Losses, which value shall be determined in accordance with subsection (iii) of this Section 4(b). Upon receipt of such Indemnification Escrow Funds, [-----] shall cancel such Indemnification Escrow Funds.

(iii) For the purposes of determining the number of Indemnification Escrow Funds to be transferred to [-----] out of the Escrow Fund and cancelled by [-----] pursuant to subsection (ii) of this Section 4(b), the Indemnification Escrow Funds shall be valued according to the Base Price (as defined in the Merger Agreement). The Escrow Agent shall have no duty or obligation to make any determination regarding the value of Indemnification Escrow Funds or regarding the number of Indemnification Escrow Funds that are necessary to be delivered to [-----].

(iv) If any Indemnification Escrow Funds are retained by the Escrow Agent or transferred to [-----] pursuant to any provisions of this Section 4, such Indemnification Escrow Funds shall be taken from the Escrow Fund in accordance with each Stockholder’s proportionate interest in the Indemnification Escrow Funds, as determined pursuant to Section 3(a)(ii) of this Escrow Agreement.

(v) Notwithstanding the foregoing, in the event that [-----] reasonably anticipates that an Indemnified Party will have to pay or incur indemnifiable Losses with respect to facts and circumstances existing on or before the Escrow Termination Date (as defined in Section [Number] of the Merger Agreement), [-----] shall deliver to both the Stockholder Representative and the Escrow Agent an Officer’s Certificate with respect to such anticipated liability, in accordance with the provisions of this subsection (b). That number of Indemnification Escrow Funds that, in the reasonable judgment of [-----], subject to the objection of the Stockholder Representative and the subsequent arbitration of the claim in accordance with Section 4(d) of this Escrow Agreement, would be necessary to satisfy a claim for indemnification with respect to such anticipated liability, if the Indemnified Party were to prevail in establishing its right to indemnification, shall remain in the Escrow Fund until such claim for indemnification shall have been resolved.

(c) **Objections to Claims; Cash Notice.** For a period of 30 days after receipt of the Officer's Certificate by the Stockholder Representative and the Escrow Agent, [-----] shall receive no Indemnification Escrow Funds from the Escrow Fund pursuant to Section 4(b) of this Escrow Agreement unless the Escrow Agent shall have received written authorization from the Stockholder Representative to make such delivery. If the Stockholder Representative shall not have (i) objected in a written statement to the claim made in the Officer's Certificate (such written objection, a "Dispute Notice") and delivered such statement to the Escrow Agent; or (ii) provided notice of payment in cash (a "Cash Notice") pursuant to Section 4(d) of this Escrow Agreement and delivered a certified or cashier's check in the amount of the applicable claim to [-----] before the expiration of such 30-day period, [-----] shall be entitled to receive Indemnification Escrow Funds from the Escrow Fund in accordance with Section 4(b) of this Escrow Agreement.

(d) **Payment of Claims in Cash.**

Any Stockholder may elect to pay any claim for indemnification made in an Officer's Certificate in cash in lieu of Indemnification Escrow Funds by delivering a Cash Notice to [-----] and the Escrow Agent, together with a certified or cashier's check in the amount of such claim paid to the order of the Indemnified Party, no later than thirty days after receipt of the Officer's Certificate by the Stockholder Representative and the Escrow Agent.

(e) **Resolution of Conflicts; Arbitration.**

(i) If the Stockholder Representative shall deliver a Dispute Notice to the Escrow Agent within such 30-day period, the Stockholder Representative and [-----] shall attempt in good faith to agree upon the rights of the respective parties with respect to the dispute within 30 days after the Escrow Agent's receipt of the Dispute Notice (the "Negotiation Period"). If the Stockholder Representative and [-----] should so agree during the Negotiation Period, a memorandum setting forth such agreement, and the number of Indemnification Escrow Funds to be delivered to [-----], shall be prepared and signed by both parties and furnished to the Escrow Agent. The Escrow Agent shall be entitled to rely on any such memorandum and, if appropriate, distribute Indemnification Escrow Funds, as applicable, from the Escrow Fund in accordance with the terms of such memorandum.

(ii) If no such agreement has been reached by the end of the Negotiation Period, either [-----] or the Stockholder Representative may demand arbitration of the matter; provided, however, that if the amount of Losses is at issue in pending litigation with a third party, neither party may commence arbitration until such Losses amount is ascertained by settlement or a nonappealable decision of a court of competent jurisdiction or both parties agree to arbitration. In either such event, the matter shall be settled by arbitration conducted by three arbitrators, as follows. Within 15 days after the Stockholder Representative or [-----] delivers a written demand for arbitration to the other party, [-----] and the Stockholder Representative shall each select one arbitrator. The third arbitrator shall be selected as soon as practicable by agreement of the first two arbitrators or, failing such agreement, by the American Arbitration Association. The arbitration shall be conducted in the city of [-----], in the state of [-----]. The written decision of a majority of the three arbitrators as to the validity and amount of any claim for indemnifiable Losses in such Officer's Certificate, and the number of Indemnification Escrow Funds to be delivered to [-----], shall be binding and conclusive upon the parties to this Escrow Agreement, and notwithstanding anything to the contrary in this Section 4(c), the Escrow Agent shall be entitled to act in accordance with such decision and make or withhold payments out of the Escrow Fund in accordance with such decision. The arbitrators shall award reimbursement to the prevailing party in the arbitration of its reasonable expenses of the arbitration (including costs and reasonable attorneys' fees). The award of the arbitrators shall be the sole and exclusive monetary remedy of the parties to this Escrow Agreement and shall be enforceable in any court of competent jurisdiction. Notwithstanding the