



Department of Labor and Training
 Workers' Compensation Self-Insurance Unit
 P.O. Box 20190, Cranston, RI 02920-0942
 Telephone: (401) 462-8100, Fax: (401) 462-8095

ESCROW AGREEMENT

This Escrow Agreement ("Agreement") dated as of _____, is by and among _____, a Rhode Island corporation, the Department of Labor & Training of the State of Rhode Island, acting by and through the Director thereof ("the Director"), and _____, a national banking association ("Escrow Agent").

WITNESSETH

WHEREAS, _____ is an employer subject to the provisions of Chapters 29-38, inclusive, of Title 28 of the Rhode Island General Laws, as amended ("the Act"); and

WHEREAS, _____ desires to furnish security to the Director for any worker's compensation payable pursuant to the Act for which _____ may become liable during the term of this Agreement; and

WHEREAS, pursuant to the provision of Section 28-36-1 of the Act, the Director is willing to accept the escrow arrangement made pursuant to this Agreement as part of the compliance with the requirements of the Act and in lieu of any insurance (basic workers' compensation policy) that may be required under the Act from _____ to a future date at the option of the Director; and

WHEREAS, prior to the execution hereof, _____ has deposited certain sums with the Escrow Agent to be held pursuant to the terms of this Agreement Trust customer # _____.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Escrow Account:** Escrow Agent hereby acknowledges that _____ deposited with the Escrow Agent the sum of \$ _____ dollars to be held in a separate account identified as Escrow Account # _____ and to be invested and disbursed in accordance with the provisions of the Agreement. The Escrow Account and any investments made of the sums held from time to time therein shall be made in the customer name: _____, as Escrow Agent under Escrow Agreement, dated _____ Department of Labor & Training and various employees of _____. Taxpayer identification number, _____, shall be used in connection with the Escrow Account.

2. **Investment of Escrow Account.** During the term of this Agreement, the Escrow Agent may invest all sums held in the Escrow Account in certificates of deposit issued by Escrow Agent and debt obligations of the United States, in such amounts and in such maturities not exceeding one year, as directed by the Director or his designee in writing in its sole discretion. All interest or other income received in connection with any investment of sums held pursuant to the terms of this Agreement shall be added to and also held pursuant to the terms of this agreement. For tax reporting purposes, all interest earned in the Escrow Account shall be allocated to _____. Upon the occurrence of an Event of Default (as hereinafter defined) and the giving of notice thereof by the Director to Escrow Agent in writing, the Escrow Agent shall invest the Escrow Account in such of the foregoing investments as directed by the Director in writing or fax being signed by the Director or his designee.

3. **Disbursement of Escrow Account.** Until the occurrence of an Event of Default and the giving of notice thereof by the Director to Escrow Agent, only the Director or his designee shall have the right to withdraw, at such times and in accordance with such arrangements as the Director and the Escrow Agent shall agree from time to time, any and up to all sums credited to the Escrow Account for payments of assessments for workers' compensation, state fees, and claims payments for workers' compensation to _____ employees, should the Director deem it necessary. Upon the occurrence of an Event of Default and the giving of notice thereof by the Director to Escrow Agent (the Escrow Agent may accept and rely on a signed fax) any and up to all sums held in the Escrow Account shall be paid, pursuant to the written instructions of the Director delivered from time to time to the Escrow Agent, to or for the benefit of such employees of _____ (as defined in the Act) as may be entitled to compensation pursuant to the provisions of the Act. Upon termination of this Agreement, all sums then remaining in the Escrow Account shall be paid to _____. No payment shall be made from the Escrow Account except in accordance with the provisions of this Section.

4. **Termination.** This agreement shall terminate upon the earlier to occur of: (a) application of all sums held in the Escrow Account or (b) as determined only by the Director or his designee in writing, maintenance of the Escrow Account is no longer required to be held pursuant to the provisions of the Act.

5. **Security Interest.** _____ hereby pledges the Escrow Account and grants a security interest therein to the Director and agrees that the Escrow Account shall be held and maintained during the term of this Agreement for the benefit of employees of _____ (as defined in the Act) who may become entitled to compensation payable by _____ pursuant to the Act on account of claims arising during the period beginning _____, and continuing for such a period as shall be reasonably determined by the Director.

6. **Event of Default.** As used herein, the term "Event of Default" shall mean the failure of _____ to pay within fourteen (14) days of the due date thereof any amount of compensation that may become payable by it or for the benefit of its employees as defined in and in accordance with the Act. Compensation includes but is not limited to weekly indemnity, medical services, rehabilitation costs approved by the Director or the Workers' Compensation Court, fees of the Department and assessments of the Department.

7. **Indemnification of Escrow Account.** _____ and the Director each hereby acknowledge that Escrow Agent is acting solely as a stakeholder at their request and for their convenience; that Escrow Agent shall not be deemed to be the Agent of either _____ or the Director; and that the Escrow Agent shall not be liable to either _____ or the Director for any act or omission on its part undertaken unless taken or suffered in bad faith, in willful disregard of this Agreement or involving gross negligence. _____ agrees to pay all costs and fees reasonably incurred or imposed by Escrow Agent in connection with the performance of its duties under this Agreement. _____ shall indemnify and hold Escrow Agent harmless from and against all liabilities, obligations, losses, damages, judgements, suits, costs, expenses or disbursement, including reasonable attorney's fees, of any kind of nature whatever which may be imposed on, incurred by or asserted against by Escrow Agent of its duties hereunder, except with respect to liabilities, obligations, losses, damages, judgements, suits, costs, expenses or disbursements arising out of actions or missions taken or suffered by Escrow Agent in bad faith, in willful disregard of this Agreement or involving gross negligence on the part of Escrow Agent.

8. **Notices.** All notices pursuant to this Agreement shall be in writing and shall be effective upon receipt thereof. All notices shall be directed to the attention of all the parties hereto and to the person intended as the recipient thereof, at the respective address of such person set forth below, or at such other address or to the attention of such other person as such party shall have designated for such purpose in a notice conforming to the provisions hereof:

(a) If to _____, address _____

Attention: _____

(b) If to the Director, to: Department of Labor & Training, 1511 Pontiac Avenue, PO Box 20190, Providence, RI 02920-0942, Attention: Director; and

(c) If to Escrow Agent, to: _____

or his designee in his absence.

9. **Escrow Agent Fees and Expenses.** The acceptance fee of the Escrow Agent is \$ _____ and the annual fee of the Escrow Agent hereunder is \$ _____, which fees shall be non-refundable and paid in advance by _____. Said party also agrees to pay on demand Escrow Agent's costs and expenses, including the fees and expenses of counsel to the Escrow Agent, other than costs and expenses reimbursed pursuant to paragraph 7 hereunder.

10. **Escrow Agent's Duties and Responsibilities.** Escrow Agent may act upon any instrument or other writing believed by it in good faith to be genuine and to have been signed or presented by the proper person and shall not be liable to any party hereto in connection with the performance of its duties hereunder, except for its own gross negligence or willful misconduct. Escrow Agent's duties shall be determined only with reference to this Escrow Agreement and applicable laws and Escrow Agent is not charged with knowledge of or any duties or responsibilities in connection with any other document or agreement. If in doubt as to its duties and responsibilities hereunder, Escrow Agent may consult with counsel of its choice and shall be protected in any action taken or omitted in connection with the advise of such counsel.

11. **Inconsistent Claims.** In the event that Escrow Agent should at any time be confronted with inconsistent claims or demands by the parties hereto, Escrow Agent shall have the right to interplead said parties in any court of competent jurisdiction and request that such court determine the respective rights of the parties with respect to this Escrow Agreement, and upon doing so, Escrow Agent automatically shall be released from any obligations or liability as a consequence of any such claims or demands.

12. **Resignation.** Escrow Agent shall have the right at any time to resign hereunder by giving written notice of its resignation to the other parties hereto at the address set forth herein or at such other address as the parties shall provide, at least 30 days prior to the date specified for such resignation to take effect; and upon the effective date of such resignation, all cash and other payments and all other property then held by the Escrow Agent hereunder shall be delivered by it to such a successor escrow agent or as other wised shall be designated in writing by the parties hereto. If no successor is appointed, Escrow Agent may apply to a court of competent jurisdiction for such appointment.

13. **Miscellaneous Provisions.**

(a) No delay in the exercise of a right of power under this Agreement shall affect the subsequent exercise thereof by any party.

(b) Each party hereto represents and warrants to the other parties hereto that this Agreement constitutes the legal, valid and binding agreement of such party, duly authorized by all requisite action, and enforceable against such party in accordance with the terms.

(c) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns. The rights and obligations of Escrow Agent hereunder may not be assigned without the prior written consent of _____ and the Director or his designee, which consent shall not be unreasonably withheld. All references herein to the Director shall refer to the person from time to time holding the office of Director of the Department of Labor & Training, of the State of Rhode Island or the successor to the responsibilities of such office, however named or appointed.

(d) This Agreement is entered into pursuant to the provisions of the Act and the rights and obligations of _____ and the Director shall be interpreted in accordance with and governed by the provisions hereof. Without limiting the generality of the foregoing, the failure of the Director to comply with any request by _____ to terminate this Agreement, reduce the Escrow Amount, or take any other action with respect to this Agreement may be appealed by _____ pursuant to Section 28-36-3 and the other provisions of the Act.

(e) This Agreement may be executed in one or more counterparts, and when each party hereto has at least one counterpart, this Agreement shall be deemed to be the one and the same document.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first written above.

(Company)

Signed _____

By _____

Date _____

Department of Labor & Training
State of Rhode Island

By _____
Director

Date _____

As Escrow Agent

(Bank Name)

Signed _____

By _____

Date _____

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