

## ESCROW AGREEMENT

THIS ESCROW AGREEMENT (hereinafter referred to as this "Agreement"), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ by and among \_\_\_\_\_ having as a mailing address: \_\_\_\_\_ (hereinafter referred to as "Seller"); and \_\_\_\_\_ having as a mailing address: \_\_\_\_\_ (hereinafter referred to as "Purchaser"); and INVESTORS TITLE INSURANCE COMPANY, a North Carolina corporation having as a mailing address: 121 North Columbia Street, Chapel Hill, North Carolina 27514, Attention: Commercial Escrow Services (hereinafter referred to as "Escrow Agent").

### W I T N E S S E T H

WHEREAS, Seller and Purchaser have entered into that certain Contract for the Sale and Purchase of Real Property having an Effective Date of \_\_\_\_\_, as to certain real property (hereinafter referred to as the "Property") situated in \_\_\_\_\_ County, in the State of \_\_\_\_\_ (hereinafter referred to as the "Sales Contract"); and

WHEREAS, Seller and Purchaser have agreed and are desirous and willing that the closing of the transaction contemplated by the Sales Contract take place in accordance with the terms and provisions of this Agreement.

WHEREAS, pursuant to paragraph \_\_\_\_\_ of the Sales Contract, Purchaser and Seller have appointed Investors Title Insurance Company to hold earnest money in the amount of \$ \_\_\_\_\_, which sum will be held in accordance with the terms of this Agreement and the Sales Contract.

NOW, THEREFORE, in furtherance of the transaction contemplated hereby, and for and in consideration of TWO HUNDRED AND FIFTY AND ZERO/100 DOLLARS (\$250.00) cash paid in hand to Escrow Agent, which escrow fee shall be waived if Escrow Agent also insures title to the Property, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Seller and Purchaser hereby designate, constitute and appoint Investors Title Insurance Company as the "Escrow Agent" under this Agreement to hold earnest money in the amount of \$ \_\_\_\_\_, and Investors Title Insurance Company accepts such designation and appointment and agrees to act in accordance with the terms of this Agreement and the Sales Contract. It is hereby expressly understood and agreed that in the event a conflict should arise as between the terms of this Agreement and those of the Sales Contract, the terms of this Agreement shall control. Seller and Purchaser agree (a) that Escrow Agent shall be a stakeholder only and not liable for any losses, costs or damages it may incur in performing its responsibilities hereunder unless such losses, costs or damages shall arise out of the willful default or gross negligence of Escrow Agent or its agents, (b) that no releases or disbursements shall be made hereunder except upon consistent written instructions from both Seller and Purchaser or their successors or assigns; (c) that in the event of a dispute hereunder between Seller and Purchaser (or their successors or assigns), Escrow Agent shall have the right, exercisable in its sole discretion, to be discharged by tendering unto the registry or custody of any court of competent jurisdiction, the closing documents and the Escrow Funds, together with any such legal pleadings as it deems appropriate; and (d) that in the event Escrow Agent tenders the funds to the court in an interpleader action, Escrow Agent shall have the right to charge an additional administrative fee of five hundred and no/100 dollars (\$500.00) towards its costs. A total of \$750.00, representing the base Escrow Agent fee and the additional administrative fee under this agreement,

may be withheld from the Escrow Funds tendered to the court. Purchaser and Seller shall indemnify and hold harmless Escrow Agent for all of its expenses, costs and reasonable attorneys fees incurred in connection with said interpleader action that exceed \$500.00.

2. Upon receipt of consistent written instructions from both Seller and Purchaser, or their respective counsel, then Escrow Agent shall disburse the funds held in escrow in accordance with the written instructions signed by both Purchaser and Seller, or their respective counsel. Said written instructions may not be unreasonably withheld and may be given in duplicate counterparts and by facsimile. Escrow Agent requests delivery of such instructions at least 24 hours before disbursement is needed. Escrow Agent shall have the right to deduct Escrow Agent's unpaid fee and any costs Escrow Agent has incurred for overnight delivery charges or wire transfer fees from the funds held prior to disbursement.

3. All checks, money orders, wires or drafts sent to Escrow Agent under this Agreement will be processed for collection in the normal course of business. Escrow Agent will not commingle funds received by it in escrow with funds of others and shall invest such funds in a money market account with a federally insured Bank or in a money market fund rated AAA by at least one nationally-recognized rating firm. If invested in a money market fund, Escrow Agent shall enter into a Custody Agreement with Investors Trust Company to handle such investment, which Custody Agreement may be reviewed by any party hereto upon request. Investors Trust Company will not charge an additional fee for its custodial services. Escrow Agent shall not be liable for any loss caused by the failure, suspension, bankruptcy or dissolution of any such investment vehicle or fund.

4. Escrow Agent shall not be liable for any loss or damage resulting from the following:

(a) Any default, error, action or omission of any other party.

(b) The expiration of any time limit unless such time limit was known to Escrow Agent and such loss is solely caused by failure of Escrow Agent to proceed in its ordinary course of business.

(c) Any loss or impairment of funds while invested in a money market fund that was AAA-rated at the time of the investment or on deposit with a federally insured Bank, resulting from failure, insolvency or suspension of such bank or fund.

(d) Escrow Agent complying with any and all legal process, writs, orders, judgments and decrees of any court whether issued with or without jurisdiction and whether or not subsequently vacated, modified, set aside or reversed.

5. Escrow Agent shall be entitled to rely upon the instructions and other matters covered thereby, and shall not be required to investigate the authority of the person executing and delivering such instructions, or otherwise verify the accuracy of the statements of information presented therein.

6. The terms and provisions of this Agreement are for the benefit of Seller, Purchaser and Escrow Agent and their respective successors and assigns only. Nothing contained herein shall be deemed or construed to inure to the benefit of any other person or party, it being the express intent of Seller, Purchaser and Escrow Agent that no such person or party shall be entitled to any of the benefits hereof, except as herein expressly provided.

7. Time is of the essence of this Agreement.

8. This Agreement is intended as a contract under the laws of the State of North

Carolina and shall be governed thereby and construed in accordance therewith.

9. This Agreement may be executed by facsimile signatures, which for all purposes shall be deemed to constitute originals. This Agreement may be executed in counterparts, all of which when taken together shall be deemed one original.

10. Pursuant to 26 CFR § 1.468B-7, any interest or income earned on the funds held in escrow shall accrue to the benefit of Purchaser, whose tax identification number is \_\_\_\_\_, and said beneficiary authorizes Escrow Agent to sign any necessary signature cards on its behalf.

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement as of the day, month and year first above written.

SELLER: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title:

Tax I.D. No.:

PURCHASER: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title:

Tax I.D. No.:

ESCROW AGENT:

Investors Title Insurance Company, a North Carolina corporation

By: \_\_\_\_\_

Name:

Title:

Date: