



ESCROW AGREEMENT

STANDARD ESCROW AGREEMENT FOR DISPUTES

1. Date of this Agreement	
2. Claimants (i) Name: (ii) Address: (iii) Telephone number: (iv) Email address:	3. Defendants (i) Name: (ii) Address: (iii) Telephone number: (iv) Email address:
4. Description of the Dispute (state particulars to identify the dispute)	
5. Escrow Agent (i) Name: (ii) Address: (iii) Telephone number: (iv) Email address:	
6. Escrow Amount (state amount and currency)	7. Escrow Account (i) Bank: (ii) Address: (iii) Account Name: (iv) Account Number: (v) IBAN: (vi) SWIFT/BIC: (vii) Payment Reference:
8. Banking Days' Jurisdiction(s)	
9. Escrow Agent's Fee (Claimants' share) (Cl. 7) (optional) Amount: Plus per cent (sales tax)	10. Escrow Agent's Fee (Defendants' share) (Cl. 7) (optional) Amount: Plus per cent (sales tax)
11. Governing law (Cl. 14(a))	12. Exclusive jurisdiction (Cl. 14(b))

Standard Escrow Agreement for Disputes

1 Pending the resolution of the Dispute, the Claimants and the Defendants have agreed that the Escrow Amount
2 shall be held by the Escrow Agent in accordance with the terms of this Agreement.

3 1. Definitions

4 **Banking Days** means days on which banks are open for business in the jurisdictions stated in Box 8.

5 **Claimants** means the party stated in Box 2.

6 **Defendants** means the party stated in Box 3.

7 **Dispute** means the dispute described in Box 4.

8 **Escrow Account** means the account stated in Box 7.

9 **Escrow Agent** means the party stated in Box 5.

10 **Escrow Amount** means the amount stated in Box 6 plus any interest accrued while held in the Escrow Account.

11 2. Appointment of the Escrow Agent

12 The Claimants and the Defendants hereby appoint the Escrow Agent to hold the Escrow Amount in accordance
13 with this Agreement, and the Escrow Agent accepts its appointment hereunder.

14 3. Security

15 (a) Upon payment by the Defendants of the Escrow Amount, the Claimants shall refrain from taking or continuing
16 any action for the purpose of obtaining security for the Dispute.

17 (b) However, if the Escrow Amount becomes insufficient in respect of the Dispute, the Claimants shall have the
18 right to seek additional security by written request to the Defendants, save that the provisions of Subclause 3(a)
19 shall continue for 14 days following such written request.

20 4. Payment of the Escrow Amount

21 (a) The Escrow Agent shall notify the Claimants and the Defendants when it is ready to receive the Escrow Amount.

22 (b) The Defendants shall transfer the Escrow Amount to the Escrow Account without deduction, withholding or set-
23 off unless obliged to do so, in which case the amount to be transferred shall be increased to the extent
24 necessary to ensure that the Escrow Agent receives the Escrow Amount in full.

25 (c) The Escrow Agent shall notify the Claimants and the Defendants immediately upon receipt of funds, stating the
26 amount received.

27 5. Release of the Escrow Amount

28 (a) The Escrow Agent shall release the Escrow Amount or any part thereof from the Escrow Account on receipt of
29 either:

30 (i) written instructions (in the form attached as Annex A (Letter of Instruction) or in such other form as the
31 parties may agree) signed by both the Claimants and the Defendants; or

32 (ii) a final and unappealable award or final and unappealable judgment of any competent court, tribunal or
33 arbitration panel.

34 (b) Any balance of the Escrow Amount remaining in the Escrow Account after release in accordance with subclause
35 5(a) shall be released to the Defendants, provided that the Dispute has been fully and finally resolved.

36 (c) Any bank charges incurred in releasing the Escrow Amount or any part thereof shall be for the account of the
37 receiving party.

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38 **6. Responsibilities of the Escrow Agent**

- 39 (a) The Escrow Agent shall hold and deal with the Escrow Amount in accordance with the terms of this Agreement.
40 Unless stated otherwise the Escrow Agent owes no duty, obligation or responsibility whatsoever (whether
41 express or implied) to either the Claimants or the Defendants or any other person.
- 42 (b) The Escrow Agent shall not be liable for any loss, liability, damages, costs or expenses arising out of or in
43 connection with the performance of its obligations under this Agreement unless caused by its negligence or
44 wilful misconduct.
- 45 (c) In any event, the Escrow Agent shall not be liable for:
- 46 (i) any loss of business, loss of goodwill, loss of opportunity or loss of profit; nor
- 47 (ii) any loss whatsoever deemed consequential or indirect under applicable law.
- 48 (d) The Claimants and the Defendants shall jointly and severally indemnify the Escrow Agent against any loss,
49 liability, damages, costs or expenses, (including legal expenses) howsoever arising in relation to this Agreement
50 or the Escrow Amount.
- 51 (e) The Escrow Agent shall keep the Escrow Amount separate from the Escrow Agent's own funds at all times and
52 fully identifiable as being held in escrow for the Claimants and the Defendants.
- 53 (f) The Claimants and the Defendants acknowledge that any payment by the Escrow Agent from the Escrow
54 Account will be made as soon as reasonably practicable after receipt by the Escrow Agent of instructions in
55 accordance with Clause 5 (Release of the Escrow Amount). All payments shall be made by way of telegraphic
56 transfer.
- 57 (g) The Escrow Agent's obligations in relation to any particular payment required to be made in accordance with
58 this Agreement shall be fully discharged when the Escrow Agent has initiated the payment of the required
59 amount to the relevant payee's account.
- 60 (h) The Escrow Agent shall have fulfilled its obligations under this Agreement when payment(s) of all amounts in
61 the Escrow Account have been initiated.

62 **7. Escrow Agent's Fees***

63 At the same time as the Defendants transfer the Escrow Amount to the Escrow Account, the Defendants shall
64 also transfer the amount plus any sales tax stated in Box 10 which the Escrow Agent is authorised to deduct
65 from the Escrow Account in settlement of the Defendants' share of the Escrow Agent's Fee. The Escrow Agent is
66 authorised to deduct from the first payment it makes to the Claimants the amount plus any sales tax stated in
67 Box 9 in settlement of the Claimants' share of the Escrow Agent's fee. If no payment is made to the Claimants
68 the Escrow Agent may invoice the Claimants directly for their share of the Escrow Agent's Fee.

69 *This clause is optional and shall only apply if Boxes 9 and 10 are completed.

70 **8. Notices**

71 All notices under this Agreement shall be given in writing to the email addresses stated in Boxes 2, 3 and 5, as
72 the case may be.

73 **9. Variations**

74 This Agreement may be amended at any time only by and upon the written agreement of each of the Escrow
75 Agent, the Claimants and the Defendants.

76 **10. Counterparts**

77 This Agreement may be executed in any number of separate counterparts, each of which is an original but all of
78 which together shall constitute one and the same instrument.

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79 **11. Third Party Rights**

80 This Agreement is not intended, and shall not create, any third party beneficiaries or rights in any third parties
81 and the provisions of the Contract (Rights of Third Parties) Act 1999 are expressly excluded.

82 **12. Invalidity**

83 If one or more of the provisions of this Agreement is or becomes invalid, illegal or unenforceable the validity,
84 legality and enforceability of the remaining provisions of this Agreement shall not be in any way affected or
85 impaired thereby.

86 **13. Entire Agreement**

87 This Agreement comprises the entire agreement between the Escrow Agent, the Claimants and the Defendants
88 and supersedes all previous agreements whether oral or written between the parties.

89 **14. Law and Jurisdiction**

90 (a) This Agreement shall be governed by and construed in accordance with the law of the country stated in Box 11.
91 If Box 11 is left blank, then English law shall apply.

92 (b) The parties submit to the exclusive jurisdiction stated in Box 12. If Box 12 is left blank, then the exclusive
93 jurisdiction of the courts of England and Wales shall apply.

94 This Agreement has been executed on the date stated in Box 1.

95 **SIGNED by** _____
96 For and on behalf of the Claimants

97

98 **SIGNED by** _____
99 For and on behalf of the Defendants

100

101 **SIGNED by** _____
102 For and on behalf of the Escrow Agent

103

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Annex A – Letter of Instruction

To:

Reference is made to the Escrow Agreement dated _____ made between you as Escrow Agent and us.

In accordance with the terms and conditions of the Escrow Agreement, we hereby jointly and irrevocably instruct you to pay the following amount from the Escrow Account to the account as specified below:

Amount:

Bank:

Address:

Account Name:

Account Number:

IBAN:

SWIFT/BIC:

Payment reference:

Any balance remaining in the Escrow Account shall be returned to the Defendants.

Dated:

SIGNED by _____

For and on behalf of the Claimants

Name:

SIGNED by _____

For and on behalf of the Defendants

Name: