

Escrow Agreement/Addendum

Seller: _____
Buyer: _____
Escrow Agent: **Bacot and Padgett, LLC**
Escrow Agent Notice Address: 414 Monument St., Ste C Greenwood, SC 29646
Property Address: _____ and/or See Ex. A
Purchase Agreement Date: _____
Earnest Money Deposit _____ check#: _____
Assigned Closing Attorney (circle): Velvet Davis or Tripp Padgett

This ESCROW AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 202____, by and between Buyer, Seller and Escrow Agent.

WHEREAS, the Buyer, Seller and the Escrow Agent may be referred to collectively herein as “Parties” and individually as a “Party;” and,

WHEREAS, on the date hereof, Seller and Buyer entered into a purchase agreement for the certain property located at the address noted above; and,

WHEREAS, pursuant to the Purchase Agreement, Buyer and Seller have selected Escrow Agent to act as the repository of earnest money and as a closing attorney; and

WHEREAS, Buyer and Seller request Escrow Agent and closing attorney to expend its time and resources in anticipation of a successful real estate transaction (the “Engagement”); and,

WHEREAS, Escrow Agent acknowledges receipt of a check from the Buyer(s) for the Earnest Money Deposit.

NOW THEREFORE, THE PARTIES ACKNOWLEDGE AND UNDERSTAND THAT:

1. This Agreement amends the contract of sale, supplements and supersedes the provisions of the Purchase Agreement relating to earnest money. Should there be any conflict in the provisions of the Purchase Agreement and this Agreement, the provisions set forth in this Agreement shall control. Bacot and Padgett, LLC, its lawyers and staff, are not parties to, nor bound by any of the provisions in the Purchase Agreement, except as amended by this Agreement.

2. No interest is paid to any Party on any funds being held in escrow. Escrow Agent does not guarantee availability of funds for deposit made by personal check. The Earnest Money Deposit shall be deposited in an IOLTA account backed by the United States Government with South State Bank. Escrow Agent shall not be liable if the Earnest Money Deposit exceeds the maximum amount insured by the Federal Deposit Insurance Corporation.

3. The parties agree that the Earnest Money Deposit will be credited to Buyer at closing by the closing attorney; provided, however, that the closing attorney will not disburse or give credit to any Party for the Earnest Money Deposit, in the sole discretion of the closing attorney, until – at a minimum - all Parties have executed the documents required to complete the closing to the satisfaction of the closing attorney and when the closing attorney is able to lawfully record the deed to the Buyer and disburse proceeds to the Seller.

4. Should the closing not take place for any reason, the **Buyer agrees that Bacot and Padgett, LLC has spent its time and resources in anticipation of a successful real estate transaction for which it should be compensated, and therefore, may withhold the cost of the lawyer title examination, title abstract (third party or otherwise) and lender title commitment from the Earnest Money Deposit** that would otherwise be refunded to the Buyer and such amount shall be paid to escrow agent/closing attorney for its costs incurred for the Engagement.

5. In performing any of its duties hereunder, Escrow Agent shall not incur any liability, except for willful default or breach of trust, to anyone for any damages, losses, or expenses, including, without limitation, (i) any action taken or omitted upon advice of its legal counsel given with respect to any questions relating to the duties and responsibilities of Escrow Agent under this agreement; or (ii) any action taken or omitted in reliance upon any instrument, including any written notice or instruction provided for this Agreement to the Escrow Agent Notice Address. Escrow Agent may rely upon any instrument, pursuant to clause (ii) in the preceding sentence, not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and accuracy of any information contained herein which Escrow Agent shall, in good faith, believe to be genuine, to have been validly signed or presented by a proper person or persons and to conform with the provisions of this Agreement.

6. Notwithstanding anything in this Agreement or the Purchase Agreement to the contrary, if there is not consent as to who is entitled to receive the Earnest Money, Escrow Agent shall be entitled to subtract fees and costs incurred as described in paragraph 4, and then tender the remaining Earnest Money Deposit into the registry or custody of any court of competent jurisdiction, together with such legal pleadings as it may deem appropriate, and thereupon Escrow Agent shall be discharged from all further duties and liabilities under this agreement. Any such legal action may be brought in such court as Escrow Agent shall determine to have jurisdiction thereof. Escrow Agent's determination of whether a dispute exists between Seller and Purchaser shall be binding and conclusive upon all Parties hereto, notwithstanding any contention that no dispute exists. All costs and expenses incurred by Escrow Agent in taking any action pursuant to this paragraph shall be covered by and paid pursuant to the indemnification of Escrow Agent contained in paragraph 7. Purchaser and Seller agree that reasonable fees shall be paid to the Escrow Agent as compensation for Escrow Agent initiating any proceedings involving the Earnest Money Deposit with a court of competent jurisdiction. The Parties agree that \$175.00 per hour is a reasonable fee rate for initiating such proceedings.

7. Purchaser and Seller shall, and do hereby, jointly and severally indemnify, defend, and hold Escrow Agent harmless from, against, and in respect of: (i) any liability it may have with regard to its role as Escrow Agent in this transaction; (ii) any decisions made by the Escrow Agent, to release the netted Earnest Money Deposit, to either Party, or to the court, should the transaction not close; (iii) any and all demands, judgments, expenses, costs, losses, injuries, or claims of any kind whatsoever whether existing on the date hereof or hereafter arising, incurred by Escrow Agent by reason of, from, or in connection with this Agreement or any action taken or not taken by Escrow Agent under or in connection with this Agreement; and (iv) any and all counsel fees, expenses, disbursements of counsel, amounts of judgements, demands, assessments, costs, fines or penalties, and amounts paid in compromise or settlement, incurred, or sustained by Escrow Agent by reason of, in connection with, or as a result of any claim, demand, action, suit, investigation, or proceeding (or any appeal thereof or relating thereto or other review thereof) incident to the matters covered by this Agreement.

8. If Escrow Agent shall notify Seller and Purchaser of its desire to be relieved of any further duties and liabilities hereunder, then Escrow Agent shall deliver the Earnest Money Deposit to a successor escrow agent designated by Seller and Purchaser. If Seller and Purchaser shall fail to agree upon and designate a successor escrow agent within ten (10) days after having been requested by Escrow Agent to do so, then Escrow Agent shall in its discretion either deposit the net sum with a court of competent jurisdiction or designate the successor escrow agent. The successor escrow agent designated by Seller and by Purchaser or by Escrow Agent, as the case may be, shall be in Greenwood, South Carolina, and shall agree to be bound by all the terms and conditions of this Agreement. Immediately upon agreement by the successor escrow agent to be bound by all the terms and conditions of this Agreement, the original Escrow Agent shall be relieved and released of any and all duties and liabilities under or in connection with this Agreement; provided, however, that no successor escrow agent shall assume any liability for the acts or omissions of its predecessor escrow agent(s) hereunder.

9. The agency created in Escrow Agent hereby is coupled with an interest of Seller and Buyer and shall be binding upon and enforceable against the respective heirs, successors, legal representatives and assigns of Seller and Purchaser. This Agreement shall not be revoked or terminated by reason of the death, incompetency, dissolution, or liquidation of Seller or Purchaser, but shall continue to be binding upon and enforceable against the respective heirs, successors, legal representatives and assigns of Seller and Purchaser in the manner provided herein. In the event of the death, incompetency, dissolution, or liquidation of Seller or Purchaser, Escrow Agent may rely and act upon any notices permitted or required to be given hereunder from any person, firm, partnership, or corporation believed by Escrow Agent in good faith to be the heir, successor, legal representative or assign of such dissolved or liquidated party.

10. The address for the receipt of notices and other communications by Escrow Agent at the Escrow Agent Notice Address or vdavis@bacotlawfirm.com (for Velvet Davis) or realestate@bacotlawfirm.com (for Tripp Padgett).

11. Purchaser and Seller agree to promptly provide within 3 days any written approval required by Escrow Agent in connection with the disbursement of the Earnest Money Deposit in accordance with the provisions of the Agreement at the Escrow Agent Notice Address. A signed settlement statement (HUD-1, CD (Buyer and Seller) or ALTA combined) will also meet the requirement for a writing to disburse the Escrow Money Deposit.

12. If Purchaser also selects Bacot and Padgett, LLC to close on the transaction contemplated in the Purchase Agreement, **Seller** is aware that Escrow Agent will serve as counsel to **Purchaser** in this transaction. Seller agrees that the duties of Escrow Agent hereunder are ministerial in nature and shall not disqualify Agent from representation of Purchaser in connection with this Agreement or any dispute that may arise hereunder. If any dispute should arise concerning the disbursement of any funds held by Escrow Agent, Escrow Agent will act under the terms of this Agreement; however, and may not continue its representation of Purchaser in connection with such action.

13. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without giving effect to principles of conflict of laws.

14. Failure to insist upon compliance with any provision hereof shall not be deemed a waiver of such provision or any other provision hereof.

15. This Agreement may not be modified or amended except by a written amendment executed by Parties.

16. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.

17. The Parties shall treat each other with good faith and fair dealing in the performance and enforcement of this Agreement.

18. This Agreement contains the entire agreement of the Parties concerning the subject matter of this Agreement.

19. This Agreement may be executed in multiple counterparts and each counterpart shall be deemed to be an original.

20. All the terms of this Agreement are contractual and all are expressly incorporated into this Agreement, none are a mere recital, and are the result of negotiations between the Parties.

Buyer

Buyer

Seller

Seller

Buyer Agent

Seller Agent

NOTE: If the Seller(s) have not initialed and signed this agreement, then Bacot and Padgett, LLC has no obligation to the Seller for disbursement or refund of the earnest money deposit.

___ Copy of contract of sale is attached (Bacot and Padgett has received copy of contract).

___ If contract is not available, Buyer is responsible for having his or her agent forward copy to us. If Bacot and Padgett, LLC has not received a copy of the contract within seven (7) days of receipt of the earnest money deposit, the deposit will be returned to the Buyer or South Carolina unclaimed property.