

STATE AND LOCAL TAX INDEMNIFICATION AGREEMENT

This State and Local Tax Indemnification Agreement (this "Agreement") is entered into as of _____, by and between _____ ("Indemnitor"), and _____ ("Indemnitee"). Indemnitor and Indemnitee may collectively be referred to herein as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, the Parties have entered into that certain _____ Agreement dated as of _____ (the "Underlying Agreement"); and

WHEREAS, in connection with the transactions contemplated by the Underlying Agreement, certain state and local tax liabilities may arise, be assessed, or be attributable to certain periods; and

WHEREAS, as a condition to the willingness of Indemnitee to enter into and perform its obligations under the Underlying Agreement, Indemnitor has agreed to indemnify and hold harmless Indemnitee from and against certain state and local tax liabilities as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth below:

- a. **"State and Local Taxes"** means any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind imposed by any state, county, local, municipal, or other local governmental authority, including, without limitation, income, franchise, sales, use, gross receipts, ad valorem, transfer, excise, real property, personal property, payroll, employment, and withholding taxes, together with any interest, penalties, additions to tax, or additional amounts imposed with respect thereto.
- b. **"Tax Claim"** means any assessment, audit, examination, investigation, litigation, or other administrative or judicial proceeding by any state or local taxing authority.
- c. **"Tax Loss"** means any and all damages, losses, liabilities, obligations, costs, expenses, disbursements, and reasonable attorneys' fees and professional costs incurred or suffered by Indemnitee arising out of or resulting from any State and Local Taxes subject to indemnification under this Agreement.

2. INDEMNIFICATION OBLIGATIONS

- a. Indemnitor hereby agrees to indemnify, defend, and hold harmless Indemnitee, its affiliates, directors, officers, employees, agents, successors, and permitted assigns, from and against any and all Tax Losses and State and Local Taxes arising out of, relating to, or resulting from:
 - i. Any State and Local Taxes of, or related to the business, assets, or operations of Indemnitor for any taxable period ending on or before _____;
 - ii. Any State and Local Taxes resulting from a breach of any representation, warranty, or covenant made by Indemnitor in this Agreement or the Underlying Agreement; and
 - iii. Any State and Local Taxes imposed on the transaction contemplated by the Underlying Agreement for which Indemnitor is designated as responsible under applicable law or the terms of the Underlying Agreement.

3. PROCEDURES FOR TAX CLAIMS

- a. **Notice:** Indemnitee shall notify Indemnitor in writing within _____ days of receipt of any written

notice of a Tax Claim that could give rise to an indemnification payment under this Agreement. Such notice shall include copies of any correspondence or documentation received from the taxing authority.

- b. **Defense of Tax Claim:** Indemnitor shall have the right, at its own expense, to control the defense, settlement, or compromise of any such Tax Claim, provided that:
- i. Indemnitor diligently pursues the defense of such Tax Claim in good faith;
 - ii. Indemnitee is kept fully informed of all material developments and is permitted to participate in the defense at its own expense; and
 - iii. Indemnitor shall not settle or compromise any Tax Claim without the prior written consent of Indemnitee, which consent shall not be unreasonably withheld, conditioned, or delayed, if such settlement would have a material adverse impact on the tax liability or business operations of Indemnitee for any period ending after _____.

4. COOPERATION AND RECORDS

The Parties shall cooperate fully with each other in connection with the preparation and filing of any tax returns, and any audit, litigation, or other proceeding with respect to State and Local Taxes. Such cooperation shall include, without limitation, the retention and provision of records, documents, and information reasonably relevant to any such tax return or proceeding, and making employees or representatives available on a mutually convenient basis to provide additional explanation of any material provided hereunder.

5. PAYMENT AND SURVIVAL

- a. All payments required to be made by Indemnitor to Indemnitee under this Agreement shall be made in immediately available funds within _____ days after written demand therefor by Indemnitee, which demand shall be accompanied by reasonable documentation verifying the amount of the Tax Loss or State and Local Tax liability.
- b. The indemnification obligations under this Agreement shall survive the closing of the transactions contemplated by the Underlying Agreement until _____ days after the expiration of the applicable statute of limitations for the assessment of the State and Local Taxes in question.

6. MISCELLANEOUS

- a. **Governing Law:** This Agreement shall be governed by, and construed in accordance with, the laws of the State of _____, without giving effect to any principles of conflicts of law.
- b. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, between the Parties with respect to such subject matter.
- c. **Amendments:** This Agreement may not be amended, modified, or supplemented except by a written instrument executed by both Parties.
- d. **Severability:** If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this State and Local Tax Indemnification Agreement as of the date first written above.

INDEMNITOR:

By: _____

Name: _____

Title: _____

INDEMNITEE:

By: _____

Name: _____

Title: _____