

TAX REPRESENTATION AND WARRANTY INDEMNITY AGREEMENT

This TAX REPRESENTATION AND WARRANTY INDEMNITY 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, Indemnitor and Indemnitee have entered into that certain _____ Agreement, dated as of _____ (the "Acquisition Agreement"), pursuant to which Indemnitee has agreed to acquire _____;

WHEREAS, in connection with the Acquisition Agreement, Indemnitor has made certain representations and warranties regarding the tax liabilities, filings, and status of _____ (the "Company") as of and prior to the closing date;

WHEREAS, as a material inducement to, and a condition of, Indemnitee's willingness to enter into and consummate the transactions contemplated by the Acquisition Agreement, Indemnitor has agreed to provide indemnification for certain tax-related matters on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties, 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:

SECTION 1. DEFINITIONS

1. **"Pre-Closing Tax Period"** means any taxable period ending on or before the Closing Date and, with respect to any Straddle Period, the portion of such taxable period ending on and including the Closing Date.
2. **"Straddle Period"** means any taxable period that begins on or before the Closing Date and ends after the Closing Date.
3. **"Tax"** or **"Taxes"** means any and all federal, state, local, or foreign taxes, charges, fees, imposts, levies, or other assessments, including income, gross receipts, excise, real or personal property, sales, use, transfer, withholding, social security, occupation, use, service, license, payroll, and franchise taxes, together with any interest, penalties, or additions to tax imposed by any taxing authority.
4. **"Tax Claim"** means any assessment, claim, audit, examination, investigation, litigation, or other proceeding with respect to Taxes of the Company.

SECTION 2. TAX INDEMNIFICATION

1. **Indemnification Obligations.** Subject to the limitations set forth in Section 3, Indemnitor hereby agrees to indemnify, defend, and hold harmless Indemnitee, its affiliates, and their respective officers, directors, employees, and agents from and against any and all losses, liabilities, claims, damages, deficiencies, costs, and expenses (including reasonable attorneys' and tax professionals' fees) arising out of, resulting from, or in connection with:
 - a. Any inaccuracy in or breach of any representation or warranty made by Indemnitor regarding Taxes in the Acquisition Agreement or any certificate delivered pursuant thereto;
 - b. Any breach or non-performance of any covenant or agreement made by Indemnitor regarding Taxes in this Agreement or the Acquisition Agreement;
 - c. All Taxes of the Company for any Pre-Closing Tax Period; and
 - d. Any transfer Taxes arising from the transactions contemplated by the Acquisition Agreement.
2. **Straddle Period Allocation.** In the case of any Straddle Period, the Taxes of the Company shall be allocated between the Pre-Closing Tax Period and the post-closing portion of such period based on an interim closing of the books as of the

close of business on the Closing Date; provided, however, that property Taxes and other ad valorem Taxes shall be allocated on a daily pro-rata basis.

SECTION 3. LIMITATIONS ON INDEMNIFICATION

1. **Survival Period.** The representations and warranties of Indemnitor regarding Taxes, and the indemnification obligations set forth in Section 2, shall survive the closing of the transactions contemplated by the Acquisition Agreement until _____ days following the expiration of the applicable statute of limitations.
2. **Cap.** The aggregate maximum liability of Indemnitor for indemnification claims under this Agreement shall not exceed \$ _____.
3. **Basket.** Indemnitor shall not be liable for any indemnification payment under this Agreement until the aggregate amount of all losses subject to indemnification exceeds \$ _____, in which event Indemnitor shall be liable for the full amount of such losses from the first dollar.

SECTION 4. CLAIMS PROCEDURE

1. **Notice of Claim.** Indemnitee shall give prompt written notice to Indemnitor of any Tax Claim or other matter for which Indemnitee believes it is entitled to indemnification hereunder. Such notice shall describe the claim in reasonable detail and state the estimated amount of loss, to the extent known.
2. **Control of Defense.** Indemnitor shall have the right, at its own expense, to participate in and control the defense, settlement, or compromise of any Tax Claim relating solely to a Pre-Closing Tax Period, provided that Indemnitor diligently conducts such defense. Indemnitor shall keep Indemnitee reasonably informed of the progress of such Tax Claim and shall not settle any such claim without the prior written consent of Indemnitee, which consent shall not be unreasonably withheld, conditioned, or delayed.

SECTION 5. GENERAL PROVISIONS

1. **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.
2. **Amendments and Waivers.** This Agreement may not be amended, modified, or supplemented except by a written instrument executed by both Parties.
3. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Tax Representation and Warranty Indemnity Agreement as of the date first written above.

INDEMNITOR:

INDEMNITEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____