

# WITHHOLDING TAX INDEMNITY AGREEMENT

This Withholding Tax Indemnity Agreement (the "Agreement") is entered into as of \_\_\_\_\_, by and between \_\_\_\_\_ ("Indemnitor"), and \_\_\_\_\_ ("Indemnitee").

## RECITALS

WHEREAS, Indemnitor and Indemnitee have entered into that certain \_\_\_\_\_ Agreement dated as of \_\_\_\_\_ (the "Underlying Agreement"); and

WHEREAS, pursuant to the Underlying Agreement, certain payments may be made by Indemnitee to Indemnitor, or by Indemnitor to Indemnitee; and

WHEREAS, the parties desire to allocate the sole responsibility for any withholding taxes that may be asserted, levied, or assessed by any tax authority in connection with such payments, and Indemnitor has agreed to fully indemnify and hold harmless Indemnitee in respect thereof.

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

## 1. INDEMNIFICATION

- 1. Indemnity Obligation:** Indemnitor hereby agrees to indemnify, defend, and hold harmless Indemnitee, its affiliates, officers, directors, employees, and agents from and against any and all taxes, withholding taxes, levies, imposts, duties, deductions, or other charges, including any interest, penalties, additions to tax, legal fees, and administrative expenses (collectively, "Tax Liabilities") imposed by any local, state, federal, or foreign governmental or taxing authority arising out of, resulting from, or in connection with any payments made under the Underlying Agreement.
- 2. Gross-Up:** If Indemnitee is required by law to make any deduction or withholding for or on account of any tax from any payment due to Indemnitor, then the amount payable shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, Indemnitor receives and retains a net sum equal to the sum which it would have received and retained had no such deduction or withholding been required.

## 2. NOTIFICATION AND DEFENSE OF CLAIMS

- 1. Notice:** Indemnitee shall promptly notify Indemnitor in writing of any claim, audit, inquiry, or assessment by any taxing authority that could give rise to a claim for indemnification under this Agreement.
- 2. Defense:** Indemnitor shall have the right, at its own expense, to participate in or assume the defense of any such tax claim or audit, provided that Indemnitor conducts such defense actively, diligently, and in good faith. 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.

## 3. PAYMENT OF INDEMNITY

Any payment required to be made by Indemnitor to Indemnitee under this Agreement shall be made in immediately available funds within \_\_\_\_\_ days of written demand by Indemnitee, accompanied by reasonable documentation evidencing the Tax Liabilities or the assertion thereof by a taxing authority.

## 4. REPRESENTATIONS AND WARRANTIES

Indemnitor represents and warrants that it is fully aware of its tax status and obligations, has consulted with its own tax advisors regarding the transactions contemplated by the Underlying Agreement, and has the full corporate power and authority to enter into and perform its obligations under this Agreement.

**5. GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of \_\_\_\_\_, without giving effect to any choice of law or conflict of law provisions. Any legal action or proceeding arising under this Agreement shall be brought exclusively in the courts located in \_\_\_\_\_.

**6. MISCELLANEOUS**

- 1. **Entire Agreement:** This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all prior agreements, oral or written.
- 2. **Amendment:** This Agreement may not be amended, modified, or supplemented except by a written instrument executed by both parties.
- 3. **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 Withholding Tax Indemnity Agreement as of the date first written above.

**INDEMNITOR:**

**INDEMNITEE:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_