|  |  **Post-Closing Escrow Agreement (Lender-Borrower)**  |
| --- | --- |
|  |

Commitment No: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

THIS POST-CLOSING ESCROW AGREEMENT (“Agreement”) is made as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by and among \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Borrower”), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Lender”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Escrow Agent”).

**RECITALS**:

1. Lender is providing a mortgage loan on the property located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Property”).
2. Escrow Agent has agreed to issue its title insurance policy insuring the Property in accordance with the above-described Commitment.
3. Lender is depositing with Escrow Agent loan funds in the sum of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Funds”), which amount shall be held in an escrow account by Escrow Agent. All risk of loss for said account shall accrue in favor of Borrower.

**THE PARTIES AGREE:**

1. **Recitals**: The above recitals are incorporated below as if set forth at length.
2. **Work**: Borrower shall be responsible for procuring performance of the following work (the “Work”): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*if available, a copy of the contractor’s quote is attached as* ***Exhibit A***). Lender, or an inspector designated by Lender, shall be responsible for inspecting the Work and shall: (a) determine whether the Work has been satisfactorily completed, and (b) obtain its own assurance that no construction liens are outstanding or can attach to the Property on account of the Work.
3. **Release of the Funds**: Escrow Agent shall hold the Funds until the first of the following events:
	1. On receipt of joint written instructions from Lender and Borrower directing Escrow Agent to disburse the Funds to a named party, Escrow Agent shall disburse the Fund as directed in such notice. Upon such disbursement, Escrow Agent shall have no further liability under this Agreement.
	2. In the event Escrow Agent does not receive joint written instructions under Section 3(A), above, on or before \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_(“End Date”), Escrow Agent shall continue to hold the Funds until the first of the following events:
		1. Receipt by Escrow Agent of joint written instructions from Lender and Borrower to disburse the Funds to a named party (upon receipt of such notice, Escrow Agent shall make the disbursement as directed in the notice);
		2. Delivery of the Funds by Escrow Agent, at Escrow Agent's sole discretion, to a court of competent jurisdiction. Such delivery may be by interpleader or other writ or petition. Lender and Borrower agree that, after the Funds are delivered to court under this paragraph, Escrow Agent shall have no further liability under this Agreement and shall not be a necessary or permitted party in any action brought regarding the Funds; or
		3. Entry and receipt by Escrow Agent of an order of a court of competent jurisdiction ordering Escrow Agent to deliver the Funds (upon receipt of such order, Escrow Agent shall make the disbursement as directed in the order).

4. **Additional Funds to Complete the Work**: In the event that the Funds are insufficient to complete the Work, plus interest, costs, and attorneys fees, if applicable, **Borrower** agrees to deposit such additional funds with Escrow Agent as may be necessary to complete the Work. It is expressly understood and agreed that Escrow Agent assumes no liability or responsibility to the parties for the adequacy of the Funds deposited to complete the Work.

5. **Excess Funds**: Any excess Funds remaining in escrow after the completion of the Work are to be delivered to **Borrower**.

* 1. **Liability of Escrow Agent**: Escrow Agent shall not be liable for: (i) any act or omission done in good faith under this Agreement, nor (ii) any loss arising out of loss or impairment of the Funds in the course of collection or while on deposit with a bank due to bank failure, insolvency or suspension, except as shall result from failure of the Escrow Agent to comply with written closing instructions from the Lender and Borrower to deposit the Funds in a bank which the Lender and Borrower designated by name. Lender and Borrower agree to, jointly and severally, hold Escrow Agent harmless for all reasonable actions taken by Escrow Agent in accordance with this Agreement. In addition, Lender and Borrower further agree to pay all expenses of Escrow Agent, including reasonable attorneys’ fees, which may arise pursuant to or out of a dispute with reference to the rights of anyone claiming an interest in the Funds deposited under this Agreement.
	2. **Action Against Escrow Agent**: The parties agree that any action in relation to an alleged breach of this Agreement by Escrow Agent shall be commenced within two years of the date of the breach, without regard to the date the breach is discovered. Any action not brought against Escrow Agent within that two year time period shall be barred, without regard to any other limitations period set forth by law or statute, and the Lender and Borrower herebywaive any statute of limitations to the contrary.
	3. **Construction**: In accepting any funds, securities or documents delivered under this Agreement, Lender and Borrower understand and agree that Escrow Agent will not be called upon to construe any contract or instrument deposited with Escrow Agent, and shall be required to act in respect to the deposit under this Agreement only upon the terms of this Agreement or upon the written instructions of Lender and Borrower. In the event a dispute arises under this Agreement, Escrow Agent reserves the right to hold any money in its possession, or any other deposits made pursuant to this Agreement, until a mutual agreement has been reached between Lender and Borrower or pursuant to a final judgment or decree of a court of competent jurisdiction.

8. **Escrow Fee**: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* (Borrower or Lender) shall pay Escrow Agent the sum of $*\_\_\_\_\_\_\_\_\_\_\_\_\_\_* for its services as Escrow Agent under this Agreement, to be paid at the time that the parties enter into this Agreement. In addition, in the event that Escrow Agent does not receive joint written instructions from Lender and Borrower on or before the End Date, Escrow Agent shall be entitled to a monthly maintenance fee of $50.00, to be paid from the Funds at any such time as Escrow Agent, in its sole discretion, shall deem appropriate.

9. **Counterparts**: This Agreement may be executed in counterparts. When each party has executed a copy of this Agreement, the executed copies taken together shall have the same force and effect as if executed in one document. Facsimile signatures on this Agreement shall be deemed original signatures.

10. **Notices**: Any notice required under this Agreement shall be given in writing at the addresses set forth at the end of this Agreement and by: (a) certified or registered mail, postage prepaid, (b) overnight courier guaranteeing next day delivery, (c) personal delivery, or (d) facsimile. All notices shall be deemed given three (3) business days following deposit in the United States mail with respect to certified or registered letters, one (1) business day following deposit if delivered to an overnight courier guaranteeing next day delivery and on the same day if sent by personal delivery or facsimile (with proof of transmission).

11. **Binding**: The terms, covenants and conditions of this Agreement shall binding upon the parties and their respective successors, heirs and assigns.

| **BORROWER:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_City, State: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Phone #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  | **LENDER:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_City, State: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Phone #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| --- | --- |
| **ESCROW AGENT:**By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_City, State: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Phone #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |

**Exhibit A**

**Contractor Quote**

*(to be attached if available)*

|  |  **Authorization for Release of Escrowed Funds***(to be completed at the time funds are requested)* |
| --- | --- |

Pursuant to the terms and provisions of that certain Post-Closing Escrow Agreement dated \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ (“Agreement”) by and among the below named Borrower and Lender and the Escrow Agent named in the Agreement, Borrower and Lender direct Escrow Agent to disburse the Funds in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The disbursement check should be delivered to the following address:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Words not otherwise defined in this Authorization shall have the same meaning set forth in the Agreement.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

| **BORROWER:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_City, State: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Phone #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **LENDER:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_City, State: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Phone #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| --- | --- |