

These Terms and Conditions of Use for ZEscrow (this “Agreement”) are entered into by and between you (hereinafter, “you”) and ZSuite Technologies, Inc. as operator of the ZEscrow system (hereinafter “ZEscrow,” “us,” “our” or “we.”). This Agreement governs the terms of the online escrow and sub accounting system, known as ZEscrow, whereby you authorize ZEscrow to create Subaccounts to subdivide deposits held at the Participating Financial Institution, as well as provide ongoing operational and maintenance activities of the Subaccounts, , as defined by the Participating Financial Institution, for funds in which you are the legal custodian and manage on behalf of yourself or other parties (“Beneficiaries”). Your agreement to the terms and conditions of this Agreement is a condition upon your use of the ZEscrow program, and your enrollment in the ZEscrow program and/or continued use of the ZEscrow system shall be evidence of your assent to all obligations and responsibilities set forth in this Agreement.

### **Definitions**

- **ACH:** Automated Clearing House
- **Rules:** The rules of the National Automated Clearing House (NAACH) Association and the New England Automated Clearing House Association (NEACH).
- **Business Day:** Monday through Friday, excluding federal banking holidays, Good Friday, Christmas Eve and the Day after Thanksgiving.
- **Escrow Account:** An account at a Participating Financial Institution whose funds are managed by the custodian and not the owner or beneficiary.
- **Trustee:** An individual or business who is the custodian of funds of an Escrow Account.
- **Beneficiary:** An individual or business for whom funds are being managed.
- **Authorized User:** An individual who has the authorization to serve and act as the custodian of funds on Subaccounts opened through ZEscrow.
- **Participating Financial Institution:** A depository institution who has signed a Participating Financial Institution agreement with ZSuite Technologies, Inc to license the ZEscrow system. An institution’s status as a Participating Financial Institution is subject to change except as otherwise set forth herein.
- **Subaccount:** A digital representation of a bank account that is opened at the Participating Financial Institution and maintained within ZEscrow. The software provides for digital Subaccount opening and ongoing operational and maintenance services, including but not limited to the recordkeeping of account balances, interest calculations, and the creation of account documentation.
- **Holding Account:** The bank account at your selected Participating Financial Institution that is used to hold the aggregated funds for one or more Subaccount(s) opened through the ZEscrow system. The purpose of the Holding Account is to serve as a single location within the core system of the Participating Financial Institution that captures both incoming and outgoing transactional activity initiated on each individual Subaccount(s), thereby serving as a representation of the consolidated balances of said Subaccount(s). This account may be used as a standalone account or may be used in conjunction with a Master Escrow / Operating Account or a Disbursement Account.
- **Master Escrow / Operating Account:** The bank account at your selected Participating Financial Institution that may be used to house funds that are being deposited into Subaccounts or that have been released out of Subaccounts. When applicable, this account is used in conjunction with a Holding Account.
- **Disbursement Account:** The bank account at your selected Participating Financial Institution that may be used to house funds that have been released out of the Subaccounts. When applicable, this account is used in conjunction with a Holding Account.
- **Interest:** The amount paid based the average daily balance method to calculate the interest on your subaccount. This method applies a periodic rate to the average daily balance in the subaccount for the period.

### **Services to Be Provided by ZEscrow**

The specific services provided to you through ZEscrow will be determined based on the unique contractual agreements, specifications and configurations as determined by the Participating Financial Institution. Such services may include, but are not limited to, the following. By enrolling in the ZEscrow program, you authorize ZEscrow to perform the activities below should they be requested by the Participating Financial Institution, in addition to others that may come about as a result of new features, functionality and enhancements made to the ZEscrow system.

- Transfer funds between applicable accounts held within the core of the Participating Financial Institution, including the Master Escrow / Operating Account(s), Disbursement Account(s) and/or Holding Account(s), for the purpose of managing funds that have been subdivided into individual Subaccounts.
- Calculate earning credits on Subaccount balances as defined by your Participating Financial Institution.
- Calculate interest on Subaccount balances as defined by your Participating Financial Institution.

- Distribute earned interest on Subaccount balances as instructed by either you or your Participating Financial Institution.
- Create and provide monthly Subaccount statements.
- Contact the Beneficiary, when authorized, to request signatures on required documentation or provide read-only access to the Subaccounts in which they are assigned as the legal owner of the funds.
- Such other functions and tasks incidental and necessary for the services provided by ZEscrow.
- Enable the Participating Financial Institution to act on your behalf in ZEscrow. This includes, but is not limited to, the opening, closing and ongoing maintenance of Subaccounts, uploading and archiving documents, processing debit and credit transactions, accessing your monthly statement, and viewing reports with your information and that of any open or closed Subaccounts.

### **Representations and Warranties**

By completing your enrollment in the ZEscrow program, you hereby represent, warrant and agree as follows:

- Any and all information entered by you as part of your enrollment in the ZEscrow system is true and accurate to the best of your knowledge.
- Any and all information on existing Escrow Accounts held at the Participating Financial Institution contain true and accurate information to the best of your knowledge. You understand that such information may be used for the conversion of the Subaccounts into ZEscrow.
- Any data entered or provided by you on behalf of your Beneficiaries, whether for new Subaccounts or existing Escrow Accounts that are being converted, including tax-identification numbers (TINs), can be backed up and validated with legal documentation, including W-9 and/or W-8BEN forms. You agree to provide such documentation to ZEscrow and/or the Participating Financial Institution upon request. You understand that ZEscrow and/or the Participating Financial Institution will rely on the accuracy of this information in reporting to the Internal Revenue Service ("IRS"). In the event that the IRS ever challenges the collection efforts of the W-9 or W-8BEN or the accuracy of the information therein, you agree and acknowledge that any potential fees or other financial penalties would be your direct responsibility.
- You shall update all information as part of your enrollment in ZEscrow system on a timely basis, including but not limited to changes to Beneficiary mailing addresses.
- You shall be responsible for compliance with all legal and regulatory compliance requirements as they pertain to the specific functions of your business or account type as required under the laws of the state in which you or the organization that you represent is located or doing business.
- We may share certain information you provide to us to the Participating Financial Institution and other authorized third-party vendors as may be necessary for everyday business purposes, for our marketing purposes or for joint marketing with other financial companies.
- With respect to each ACH or account transfer debit authorized by you by you through ZEscrow, you verify and attest that the deposit account identified by you has sufficient funds available to process the corresponding debit transaction on the date of authorization and will have such funds remaining available at least three (3) business days following said authorization.

### **Termination and Amendment**

You may terminate this service anytime by cancelling your participation through the ZEscrow online portal. Termination by either party will not affect your obligations under this Agreement, even if we allow a transaction to be completed after the termination of this Agreement. We or authorized users at the Participating Financial Institution may restrict and/or cancel, without prior notice, your ability to use the ZEscrow program for any reason deemed necessary at our sole discretion.

We may change any term of this Agreement at any time upon written notice to you, with the changes effective upon your receipt of the revisions to the Agreement. You will be deemed to accept any changes to this Agreement if you continue to use the ZEscrow system, which continuing use must occur after you have received any required notice, if applicable.

### **E-SIGN Disclosures and Consent**

It is required by law to provide you with certain disclosures and information about the products, services or accounts you may receive or access in connection with your relationship with us ("Required Information"). With your consent, we can deliver Required Information to you by a) displaying or delivering the Required Information electronically; and b) requesting that you print or download the Required Information and retain it for your records.

This notice contains important information that you are entitled to receive before you consent to electronic delivery of Required Information. Your consent also permits the general use of electronic records and electronic signatures in connection with the Required Information. Your agreement to all of the requirements listed below are conditions upon your use and participation of the ZEscrow program, and your enrollment in the ZEscrow program by completing the online application process shall be evidence of your assent to all of the following obligations:

- I have read the information about the use of electronic records, disclosures, notices and e-mail, and consent to the use of electronic records for the delivery of Required Information in connection with our relationship.
- I have been able to view this information using my computer and software.
- I have an account with an internet service provider, and I am able to send e-mail and receive e-mail with hyperlinks to websites and attached PDF and Excel files.
- I consent to the use of electronic records and electronic signatures in place of written documents and handwritten signatures.
- I consent to the use of electronic methods, such as e-mail, for communication regarding the ZEscrow program and delivery of documents and statements electronically.

Your consent does not mean that we must require electronic signatures or provide the Required Information via an electronic delivery. We may choose to, at our option, require handwritten signatures or to deliver the Required Information on paper. We may also require that certain communications from you be delivered to us on paper at a specified address.

You have the right to withdraw your consent at any time. To do so, you may send a written request by email to [zescrow@zescrow.com](mailto:zescrow@zescrow.com). If consent is withdrawn, however, you understand that ZSuite Technologies reserves the right to terminate all agreements, discontinue your access to ZEscrow, close any open ZEscrow accounts that you may have with your selected Participating Financial Institution, and/or charge you a fee of \$0.35 per page for any paper copies that are requested. If, after you consent to receive communications electronically, you would like a paper copy of any ZEscrow communication previously sent to you, you may request a copy by sending a written request directly to your selected Participating Financial Institution.

In order to access and retain electronic communications, you will need the following computer hardware and software: a computer with an internet connection; current "web browser" that includes 128-bit encryption with cookies enabled; a current version of Adobe Acrobat Reader to open documents in pdf format; a current version of Microsoft Excel to open documents in xls format; and a valid email address. ZEscrow will notify you if there are any material changes to the hardware or software needed to receive electronic communications.

You are responsible for keeping your primary email address on file with your selected Participating Financial Institution up to date so that we can communicate with you electronically. You understand and agree that if ZEscrow sends you an electronic communication but you do not receive it because your primary email address on file is incorrect, out of date, blocked by your internet service provider, or you are otherwise unable to receive electronic communications, ZEscrow still will be deemed to have provided the communication to you. If you use a spam filter or other technology that blocks or re-routes emails from senders not listed in your email address book, you must add ZEscrow to your email address book so that you will be able to receive the communications we send to you. You can request that your primary email address or street address be updated at any time by contacting your selected Participating Financial Institution. If your email address becomes invalid such that electronic communications sent to you by ZEscrow are returned, either ZEscrow or the Participating Financial Institution reserves the right to discontinue your access to the website, terminate any and all agreements with you, and/or deem any and all of your accounts with ZEscrow as "inactive" or "dormant".

#### **Unavailability of ZEscrow**

The online portal for the ZEscrow program may be temporarily unavailable due to system maintenance or technical difficulties, including those of the Internet service provider, cellular service provider and/or Internet software. We make no representation or warranties as to the availability of the use of ZEscrow at any given time, and you agree to hold us harmless from any losses incurred as the result of such unavailability.

#### **Limitations on Our Liability**

In the performance of the services required by this Agreement, we shall be entitled to rely solely on the information, representations, and warranties provided by you and your Beneficiaries pursuant to this Agreement and shall not be responsible for the accuracy or completeness thereof. We shall be responsible only for performing the services contracted by your selected Participating Financial Institution and shall be liable only for our willful misconduct in performing those services. We shall not be responsible for the acts or omissions of you, the Participating Financial Institution, or any Authorized Users or Beneficiaries associated with your ZEscrow account. You agree to indemnify us against any loss, liability or expense (including attorney's fees and expenses), resulting from or arising out of any claim of any person that is responsible for any act or omission of you or any other person or entity described in this section. Specifically, you agree to indemnify us against any loss, claim, liability or expense (including attorneys' fees and expenses) resulting from any dispute between you and your Beneficiaries regarding your refusal to authorize the release of funds from Subaccounts held in ZEscrow.

In the event of a determination that we are responsible for willful misconduct, we shall be liable only for your actual damages. YOU FURTHER AGREE THAT WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER LOSSES INCURRED BY YOU OR ANY THIRD PARTY ARISING FROM OR RELATED TO THE USE OF, INABILITY TO USE, OR THE TERMINATION OF THE USE OF, ZESCROW

REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF WE HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF, EXCEPT AS OTHERWISE REQUIRED BY LAW.

If we do not complete an ACH or other electronic debit between the Subaccounts held in ZEscrow and the respective deposit accounts held within the core of your selected Participating Financial Institution in the correct amount or in compliance with the Agreement, or initiate an unauthorized debit, we may be liable for such damages as the law imposes in such cases. However, we will not be liable, for example:

- If, through no fault of ours, the designated account does not contain sufficient funds to complete the scheduled payment.
- For any circumstances beyond our control, such as fires, floods, acts of God, power outages and the like.
- If the Participating Financial Institution holding your designated account mishandles or delays processing or posting of a debit or credit transaction initiated under this Agreement.
- If you or the Participating Financial Institution have not provided us with complete and correct account information, including without limitation the deposit account number and amount to be deducted.

The foregoing list of examples is meant to illustrate circumstances under which we would not be liable for failing to make a transfer and is not intended to list all of the circumstances where we would not be liable.

Without limiting the generality of the foregoing provisions, we shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond our control. In addition, we shall be excused from failing to transmit or delay in transmitting any debit or credit if such transmittal would result in our having exceeded any limitation upon our intra-day net funds position established pursuant to present or future Federal Reserve guidelines or in our reasonable judgment otherwise violating any provision of any present or future risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority.

#### **Your Liability and Indemnification Obligations**

With respect to each and every requested transaction, you represent and warrant to us and agree that (i) any authorization provided to us is operative at the time of the transmittal or crediting by ZEscrow as provided herein, (ii) you shall perform your obligations under this Agreement in accordance with all applicable laws and regulations, including but not limited to the sanctions laws administered by OFAC (Office of Foreign Assets Control).

Further, unless otherwise required by applicable law, you understand and agree that you are required to indemnify us and all of our affiliates, officers, employees and agents and hold us and all of our affiliates, officers, employees and agents harmless from and against any and all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees and expenses, arising from your use or your Beneficiaries' use of ZEscrow and/or any breach of the terms and conditions of this Agreement. You understand and agree that this paragraph shall survive the termination of this Agreement.

#### **UCC Article 4A Disclosure**

In the event that your selected Participating Financial Institution is processing transactions through the ACH network, you acknowledge receipt and agree to the terms of below.

- A. Provisional Payment Disclosure – Credit made to your bank account at the Participating Financial Institution with respect to CCD/CTX credit entry is provisional until we receive final settlement for such entry through a Federal Reserve Bank. If the Participating Financial Institution does not receive such final settlement, you are hereby notified and agree that the Participating Financial Institution is entitled to a refund of the amount credited to you in connection with such entry, and ZEscrow shall not be deemed to have paid you in the amount of such entry.
- B. Notice Disclosure – Under the operating rules of the National Automated Clearing House Association, which are applicable to ACH transactions involving your account, neither the Participating Financial Institution nor ZEscrow acting on its behalf is required to give next day notice to you of receipt of a CCD/CTX item, and we will not do so. However, we will continue to notify you of the receipt of payments in the form of email communication, PDF documentation and/or within the periodic statements provided to you.
- C. Choice of Law Disclosure – The Participating Financial Institution may accept on your behalf payments to your account which have been transmitted by ZEscrow as an Automated Clearing House (ACH) Operator and which are not subject to the Electronic Funds Transfer Act and your rights and obligations with respect to such payments shall be construed in accordance with and governed by the laws of the state of Massachusetts, unless it has otherwise specified in a separate agreement that the law of some other state shall govern.

#### **ACH Transaction Processing**

In the event that your selected Participating Financial Institution is processing transactions through the ACH network, you agree that you shall be bound by and comply with the Rules and all responsibilities assigned to you as an Originator as in effect from time to time, including, without limitation, the provision making payment of debit by the Receiving Depository Financial Institution to the Receiver provisional until receipt by the Receiving Depository Financial Institution of the final settlement for such debit. You specifically acknowledge that you have received notice of the Rules regarding provisional payment and of the fact that if such settlement is not received, the Receiving Depository Financial Institution shall be entitled to a refund from you of the amount so credited.

As applicable, this Agreement shall be governed by, and all recurring ACH or other electronic debits from your bank account made hereunder shall be made in accordance with the Rules, and you and we agree to be bound by such Rules as in effect from time to time. If we do not receive final settlement for a payment for any reason, we shall charge back the amount of such transfer to the appropriate Account or otherwise claim a refund from you as applicable.

### **Disclaimer of Warranties**

YOU AGREE THAT YOUR USE OF ZESCROW AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF ZESCROW, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT ZESCROW WILL MEET YOUR REQUIREMENTS OR WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. WE MAKE NO WARRANTY THAT THE RESULTS THAT MAY BE OBTAINED USING ZESCROW WILL BE ACCURATE OR RELIABLE OR THAT ANY ERRORS IN ZESCROW OR ANY OF THE TECHNOLOGY RELATED THERETO WILL BE CORRECTED.

### **General Disclosure Statement**

Any documentation provided to you which indicates that an ACH transaction or any other electronic debit was made from your designated deposit account shall be admissible as evidence of such debit or credit and shall constitute prima facie proof that such debit or credit occurred. The initiation by you of certain ACH transactions or other electronic debits from or credits to your designated deposit account will, except as otherwise provided in this Agreement, effectively eliminate your ability to stop payment of the debit or credit. UNLESS OTHERWISE PROVIDED IN THIS AGREEMENT YOU MAY NOT STOP PAYMENT OF A SCHEDULED ACH OR OTHER ELECTRONIC DEBIT OR CREDIT; REQUESTS FOR REVERSALS OR STOP PAYMENTS SHOULD BE SUBMITTED DIRECTLY TO THE PARTICIPATING FINANCIAL INSTITUTION.

### **Notices and Contact Information**

Any communication, notice, statement or demand required to be served on you under this Agreement shall be in writing and sent either by electronic mail, first class mail or registered mail to you at the most recent address for you that we maintain in our records as of such time. In the event that you need to update your contact information, please reach out directly to your selected Partnering Financial Institution. If for any reason you wish to contact us about this Agreement or your participation in ZEscrow, please feel free to email us at [zescrow@zescrow.com](mailto:zescrow@zescrow.com).

### **Governing Law**

This Agreement shall be governed by and construed in accordance with the internal laws (and not the law of conflicts) of the State of Massachusetts, and all disputes regarding this Agreement shall be the exclusive jurisdiction of the Massachusetts Superior Court for Middlesex County or the United States District Court for the District of Massachusetts, as appropriate.

### **Entire Agreement, Severability and Waiver**

This Agreement, including all agreements and other documents incorporated by reference, embodies the entire agreement between the parties. Any oral agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect. No waiver of the performance or breach of, or default under, any condition or obligation in this Agreement will be deemed to be a waiver of any other performance, or breach or any other condition or obligation of this Agreement.