



SPECIAL ESCROW AGREEMENT

Escrow Bank Account Number

Non-USPS delivery:
7273 Linderson Way SW
Tumwater WA 98501

THIS AGREEMENT is entered into this _____ day of _____, _____, by and between the Director of the Department of Labor and Industries of the state of Washington, and his successor or successors, hereinafter referred to as "Director," and _____, a corporation organized under the laws of the state of _____ and authorized to do business in the state of Washington with its principal place of business in _____, hereinafter referred to as "self-insurer," and _____ authorized to transact business as a trust company and serve as the escrow agent of the parties to this agreement, hereinafter referred to as the "bank."

WHEREAS, self-insurer has applied to the Director for authority to self-insure its workers' compensation liabilities and such application has been approved subject to the provisions of RCW 51.14.020 (2), providing that a self-insurer may establish sufficient financial ability by depositing in an escrow account with any depository designated by the Director, money or securities approved by the Director, and

WHEREAS, the Director is authorized by RCW 51.14.060 to apply the proceeds of the money or securities, in the escrow account, for the satisfaction of claims against the self-insurer when it has defaulted on its obligation as a self-insurer, and

WHEREAS, the Director has designated _____ as the escrow agent for the purpose of assuming the responsibility for the safekeeping, disposition and collection of the income from any money or securities subject to the terms and conditions of this agreement, and

WHEREAS, the self-insurer has deposited into the escrow account, at the bank, money or securities having a reasonable value of \$ _____ as described below:

NOW, THEREFORE, it is hereby agreed between the parties to this escrow agreement as follows: (1) that the money or securities deposited into the escrow account are solely for the purpose of the payment of benefits to injured workers and assessments due the Department in the event of a default by the self-insurer; (2) that in the event of a default the self-insurer loses all right and title to, any interest in, and any right to control the surety, as provided by RCW 51.14.020; (3) that where the self-insurer defaults on its obligation under Title 51 RCW to pay benefits or assessments, the money or securities herein deposited are not the property of the estate of the debtor; regardless of whether any bankruptcy proceeding is instituted before or after default occurs, title to the money or securities passes automatically to the Department upon default without requiring court approval; and (4) that the bank accepts the delivery of the money or securities to be held and disposed of by the bank according to the following instructions, terms and conditions:

a) All securities and certificates of deposit must be approved as acceptable security by the Department. The self-insurer and the Director shall also have the right to inspect the above-described money or securities and any additions to the escrow account at any reasonable time and to audit the records of the bank pertaining to the escrow account.

b) Securities or certificates of deposit in this escrow account shall be registered in the name of the bank as escrow agent for the self-insurer. The self-insurer hereby gives the bank its power of attorney to transfer title to the securities or certificates of deposit to the Director upon default by the self-insurer.

c) The surety provided by the money or securities in this escrow account shall cover and extend to all past, present, existing and potential liability for workers' compensation benefits incurred as a self-insurer without regard to specific injuries or occupational diseases, date or dates of injuries, happenings, events or contraction of occupational diseases.

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d) The bank shall assume responsibility for the safekeeping of the money or securities herein deposited and shall from time to time collect the income therefrom and dispose of such income as directed by the self-insurer, except that upon notice from the Director to the bank, with a copy to the self-insurer, the bank shall not pay any of the income to the self-insurer in the case of a default in the payment of any of the self-insurer's liabilities and obligations under the provisions of Title 51 RCW, as amended, pertaining to self-insurers. The bank shall not permit the withdrawal or substitution of any of the above-described property except with the written consent of the Director.

e) At any time that the reasonable value of the above-described money or securities, including any additions thereto, decreases in market value below _____, the bank shall notify the Director and the self-insurer of such decrease. The Director may then request the self-insurer to deliver and deposit with the bank such additional money or securities, subject to the approval of the Director, for addition to the escrow account that will increase the aggregate market value of all such money or securities in the escrow account to the amount indicated in this paragraph, or as hereafter amended.

f) The Director may notify the self-insurer and the bank that the self-insurer shall increase or decrease the aggregate market value of the money or securities in the escrow account to an amount deemed necessary to insure payment of reasonably foreseeable compensation and assessments due from the self-insurer under the provisions of Title 51 RCW, as now or hereafter amended. Any changes in the aggregate market value shall be described on an amendment agreement form provided by the Department and signed by the parties to this escrow agreement.

g) The self-insurer hereby agrees that title to any money, securities or income distributions therefrom, in this escrow account, will pass to the Director upon default by the self-insurer in the payment of benefits or assessments required by Title 51 RCW. The Director hereby agrees to give the self-insurer and the bank ten days written notice, by certified mail, of his or her intent to liquidate the money or securities and use the proceeds for the payment of benefits and assessments. The bank hereby agrees to liquidate the securities and transmit the proceeds directly to the Department of Labor & Industries, upon receipt of such ten days notice. Any funds in excess of the amount needed for the payment of benefits or assessments will be returned to the self-insurer, its successor or assignees when there is no further possibility of any claims liabilities.

h) The self-insurer shall be responsible to make payment of the compensation or fees to the bank for services to be performed by the bank as the escrow agent pursuant to the provisions of this agreement. In the event of the failure of the self-insurer to pay such compensation or fees, the bank shall have the right to withhold sufficient funds from the income of the above-listed securities or money to pay them.

i) This agreement is binding on the parties to it, their successors, assignees and personal representatives. It shall not be subject to cancellation or termination without the written consent of the Director. It may only be terminated upon payment of all compensation and liabilities of the self-insurer required by Title 51 RCW, as now or hereafter amended, or upon receipt and acceptance of replacement surety in an amount designated by the Director.

Signed and dated at _____, Washington, this _____ day of _____.

Signature of Self-Insurer Representative

Title of Self-Insurer Representative

Accepted this _____ day of _____

Signature of Bank Representative

Title of Bank Representative

Program Manager for Self-Insurance