

FELBA ESCROW AGREEMENT

FEDERAL LOAN BUYDOWN AUTHORITY LLC, a Georgia limited liability company (“**FELBA**”), _____, a _____ (“**Depositor**”), _____, a _____ (“**Recipient**”) and BRANCH BANKING AND TRUST COMPANY, a North Carolina banking corporation, as escrow agent (“**Escrow Agent**”) have entered into this FELBA Escrow Agreement (this “**Escrow Agreement**”).

WHEREAS, Depositor is selling certain real property located at _____ (the “**Property**”) to _____ Recipient; and

WHEREAS, as an inducement to Recipient to purchase the Property on the agreed terms, the Depositor will deposit the Fund referred to below under this Escrow Agreement, for distribution to the Recipient pursuant to the terms of this Escrow Agreement; and

WHEREAS, FELBA has made arrangements for the establishment of this Escrow Agreement and the payment of charges of the Escrow Agent; and

WHEREAS, the Escrow Agent is willing to perform the function and duties of the escrow agent hereunder.

NOW, THEREFORE, in consideration of the premises, the undersigned hereby agree as follows:

**ARTICLE I.
TERMS AND CONDITIONS**

1.1 **Establishment of Fund.** The Depositor has caused or will cause to be deposited with the Escrow Agent at account no. _____ the sum of _____ as shown on Exhibit “A” attached hereto and made a part hereof by this reference (such sum, or the balance thereof remaining from time to time, being referred to herein as the “**Fund**”). Each of FELBA, Depositor and Recipient will provide to the Escrow Agent its Patriot Act disclosures on the Escrow Agent’s standard form.

1.2 **Treatment of Fund.** The monies constituting the Fund shall be deposited in a segregated account at the Escrow Agent pursuant to the terms of this Escrow Agreement. The Escrow Agent will invest the Fund in a Business Managed Money Rate Savings Account at Branch Banking and Trust Company. All income earned on the Fund shall accrue to and be paid to FELBA to such account as FELBA shall designate to the Escrow Agent in writing.

1.3 **Escrow Procedure and Payment Instruction.** The Fund, exclusive of all interest earned thereon, shall be held and disbursed to Recipient in the amounts and on or before the dates set out in Exhibit “A” hereto, to such account as the Recipient shall designate to the Escrow Agent in writing. If the date by which a disbursement is scheduled to be made is a day

on which banks in North Carolina are scheduled to be closed, the disbursement shall be made on the first preceding day on which banks in North Carolina are scheduled to be open.

1.4 **Termination.** This Escrow Agreement shall terminate upon the disbursement of the full balance of the Fund in accordance with the provisions of Exhibit "A" hereto.

ARTICLE II. PROVISIONS AS TO ESCROW AGENT

2.1 Limitation of Escrow Agent's Capacity.

(A) This Escrow Agreement expressly and exclusively sets forth the duties of Escrow Agent with respect to any and all matters pertinent hereto, and no implied duties or obligations shall be read into this Escrow Agreement against Escrow Agent. This Escrow Agreement constitutes the entire agreement between the Escrow Agent and the other parties hereto in connection with the subject matter of this escrow, and no other agreement entered into between the parties, or any of them, shall be considered as adopted or binding, in whole or in part, upon the Escrow Agent notwithstanding that any such other agreement may be referred to herein or deposited with Escrow Agent or that Escrow Agent may have knowledge thereof, and Escrow Agent's rights and responsibilities shall be governed solely by this Escrow Agreement.

(B) Escrow Agent acts hereunder as a depository and escrow agent only, and is not responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of the subject matter of this Escrow Agreement or any part thereof, or for the form of execution thereof, or for the identity or authority of any person executing or depositing such subject matter. Escrow Agent shall be under no duty to investigate or inquire as to the validity or accuracy of any document, agreement, instruction or request furnished to it hereunder believed by it to be genuine and Escrow Agent may rely and act upon, and shall not be liable for acting or not acting upon, any such document, agreement, instruction or request. Escrow Agent shall in no way be responsible for notifying, nor shall it be its duty to notify, any party hereto or any other party interested in this Escrow Agreement of any payment required or maturity occurring under this Escrow Agreement, or under the terms of any instrument deposited herewith.

2.2 Authority to Act.

(A) Escrow Agent is hereby authorized and directed by the undersigned to make payments of the Fund that is the subject of this Escrow Agreement only in accordance with the provisions of Article I of this Escrow Agreement.

(B) Escrow Agent shall be protected in acting upon any written notice, request, waiver, consent, certificate, receipt, authorization, power of attorney or other paper or document which Escrow Agent in good faith believes to be genuine and what it purports to be, including, but not limited to, items amending the terms of this Escrow Agreement.

(C) Should a party or parties to this Escrow Agreement assert that the Escrow Agent is not acting properly in accordance with this Escrow Agreement, Escrow Agent may consult with legal counsel at the cost and expense of the party/parties (jointly and severally)

making the assertion, in the event of any dispute or question as to the construction of any of the provisions hereof or its duties hereunder, and the Escrow Agent shall incur no liability and shall be fully protected in acting in accordance with the advice of such counsel.

(D) In the event of any disagreement between any of the parties to this Escrow Agreement, or between any of them and any other person, resulting in adverse claims or demands being made in connection with the matters covered by this Escrow Agreement, or in the event that Escrow Agent, in good faith, be in doubt as to what action it should take hereunder, Escrow Agent may, at its option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder, so long as such disagreement continues or such doubt exists, and in any such event, Escrow Agent shall not be or become liable in any way or to any person for its failure or refusal to act, and Escrow Agent shall be entitled to continue so to refrain from acting until (i) the rights of all interested parties shall have been fully and finally adjudicated by a court of competent jurisdiction, or (ii) all differences shall have been adjudged and all doubt resolved by agreement among all of the interested persons, and Escrow Agent shall have been notified thereof in writing signed by all such persons. Notwithstanding the foregoing, Escrow Agent may in its discretion obey the order, judgment, decree or levy of any court, whether with or without jurisdiction, or of any agency of the United States or any political subdivision thereof, and Escrow Agent is hereby authorized in its sole discretion, to comply with and obey any such orders, judgments, decrees or levies. The rights of Escrow Agent under this subparagraph are cumulative of all other rights which it may have by law or otherwise.

(E) In the event that any controversy should arise among the parties with respect to the Escrow Agreement, the Escrow Agent shall have the right to institute a bill of interpleader in any court of competent jurisdiction to determine the rights of the parties.

2.3 Compensation/Indemnification.

(A) FELBA shall be paid a fee of \$ _____ by the Depositor, and not from the Fund, for FELBA's services in connection with this Escrow Agreement and related arrangements. Such fee shall be paid by the Depositor at or prior to the time of deposit of the Fund, and FELBA shall provide immediate confirmation of the receipt of such fee to the remaining parties to this Escrow Agreement. If such fee is not paid, this Escrow Agreement shall be ineffective and any deposit to the Fund shall be returned to the Depositor.

(B) Escrow Agent shall be compensated by FELBA in the amount of \$2,000 annually for its costs and expenses incurred in connection with the performance by it of services under this Escrow Agreement. Nonpayment of such compensation shall be no excuse for the Escrow Agent's failure to perform its obligations under this Escrow Agreement, and the Fund may not be charged or withheld for the payment of fees, expenses or indemnity amounts.

(C) FELBA hereby agrees to indemnify and hold Escrow Agent, its affiliates and their officers, employees, successors, assigns, attorneys and agents (each an "**Indemnified Party**") harmless from all losses, costs, claims, demands, expenses, damages, penalties and attorneys' fees suffered or incurred by any Indemnified Party or Escrow Agent as a result of anything which it may do or refrain from doing in connection with this Escrow Agreement or any litigation or cause of action arising from or in conjunction with this Escrow Agreement or

involving the subject matter hereof or Escrow Funds or monies deposited hereunder or for any interest upon any such monies, including, without limitation, arising out of the negligence of Escrow Agent; provided that the foregoing indemnification shall not extend to the gross negligence or willful misconduct of Escrow Agent. This indemnity shall include, but not be limited to, all costs incurred in conjunction with any interpleader which the Escrow Agent may enter into regarding this Escrow Agreement. Notwithstanding the foregoing, if indemnity is owing pursuant to the foregoing as a direct result of an unfounded claim or assertion of Depositor or Recipient, then FELBA shall have a claim over against such Depositor or Recipient, as the case may be.

2.4 **Miscellaneous.**

(A) Escrow Agent shall not be required to make any disbursement, investment or other use of funds until and unless it has collected funds. Escrow Agent shall not be liable for collection items until the proceeds of the same in actual cash have been received or the Federal Reserve has given Escrow Agent credit for the funds.

(B) Escrow Agent may resign only after first arranging for a qualified substitute Escrow Agent of equal or better credit standing willing and able to perform this Escrow Agreement on the same terms and at the same costs, and it provides ninety (90) days advance notice to the parties hereto.

(C) All representations, covenants and indemnifications contained in this Article II shall survive the termination of this Escrow Agreement.

ARTICLE III. GENERAL PROVISIONS

3.1 **Discharge of Escrow Agent.** Upon the delivery of the entire balance of the Fund pursuant to the terms of this Escrow Agreement, the duties of Escrow Agent shall terminate and Escrow Agent shall be discharged from any further obligation hereunder.

3.2 **Escrow Instructions.** If directions or instructions from more than one of the undersigned are required, such directions or instructions may be given by separate instruments of similar tenor. Any of the undersigned may act hereunder through an agent or attorney-in-fact, provided satisfactory written evidence of authority is first furnished to any party relying on such authority.

3.3 **Notice.** Any notice, request for consent, report or any other communication required or permitted in this Escrow Agreement shall be in writing and shall be deemed to have been given when personally delivered to the party hereunder specified or when placed in the United States mail, with return receipt requested, postage prepaid and addressed as follows:

| | |
|---------------------|--|
| If to Escrow Agent: | Branch Banking and Trust Company 223 West Nash Street Wilson, NC 27893 Attn: Corporate Trust Services |
|---------------------|--|

If to FELBA: Federal Loan Buydown Authority LLC
1200 Lake Hearn Drive
Suite 110
Atlanta, Georgia 30319

If to Depositor: _____

Attn: _____

If to Recipient: _____

Attn: _____

Any party may unilaterally designate a different address by giving notice of each such change in the manner specified above to each other party. Notwithstanding the foregoing, no notice to the Escrow Agent shall be deemed given to or received by the Escrow Agent unless actually delivered to a corporate trust officer of the Escrow Agent.

3.4 **Governing Law.** This Escrow Agreement is governed by and is intended to be construed according to the internal laws of the State of Georgia. It shall inure to and be binding upon the parties hereto and their respective successors, heirs and assigns.

3.5 **Construction.** Words used in the singular number may include the plural and the plural may include the singular. The section headings appearing in this instrument have been inserted for convenience only and shall be given no substantive meaning or significance whatsoever in construing the terms and conditions of this Escrow Agreement.

3.6 **Amendment.** The terms of this Escrow Agreement may be altered, amended, modified or revoked only by an instrument in writing signed by the undersigned and Escrow Agent.

3.7 **Force Majeure.** Escrow Agent shall not be liable to the undersigned for any loss or damage arising out of any acts of God, strikes, equipment or transmission failure, war, terrorism or any other act or circumstance beyond the reasonable control of Escrow Agent.

3.8 **Written Agreement.** This Escrow Agreement represents the final agreement between the parties, and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

3.9 **Counterparts.** This Escrow Agreement may be entered into in multiple counterparts, each of which shall be deemed an original.

[Signatures on Following Page]

EXECUTED as of the _____ day of _____, 20_____.

FELBA:

**FEDERAL LOAN BUYDOWN
AUTHORITY LLC**

By: _____
Name: _____
Title: _____

Depository:

By: _____
Name: _____
Title: _____

Recipient:

By: _____
Name: _____
Title: _____

Branch Banking and Trust Company, as Escrow Agent, hereby accepts its appointment as Escrow Agent as described in the foregoing Escrow Agreement, subject to the terms and conditions set forth therein.

**BRANCH BANKING AND TRUST
COMPANY**

By: _____
Name: _____
Title: _____

Exhibit A

FELBA Escrow Payment Schedule



Deposited to fund as provided in Paragraph 1.1 of the foregoing Escrow Agreement by the depositor shall be paid to the recipient as follows:

Recipient Wire Information: Payments to be deposited in the account below in the amounts as provided in the Escrow Payment Schedule.

| | | | |
|------------|-------|---------------|-------|
| Bank Name: | _____ | Phone: | _____ |
| Address: | _____ | ABA #: | _____ |
| | _____ | Account #: | _____ |
| | _____ | Account Name: | _____ |

| | On or Before Date | Amount | Balance | | On or Before Date | Amount | Balance |
|----|-------------------|--------|---------|----|-------------------|--------|---------|
| 1 | | | \$ - | 25 | | | \$ - |
| 2 | | | \$ - | 26 | | | \$ - |
| 3 | | | \$ - | 27 | | | \$ - |
| 4 | | | \$ - | 28 | | | \$ - |
| 5 | | | \$ - | 29 | | | \$ - |
| 6 | | | \$ - | 30 | | | \$ - |
| 7 | | | \$ - | 31 | | | \$ - |
| 8 | | | \$ - | 32 | | | \$ - |
| 9 | | | \$ - | 33 | | | \$ - |
| 10 | | | \$ - | 34 | | | \$ - |
| 11 | | | \$ - | 35 | | | \$ - |
| 12 | | | \$ - | 36 | | | \$ - |
| 13 | | | \$ - | 37 | | | \$ - |
| 14 | | | \$ - | 38 | | | \$ - |
| 15 | | | \$ - | 39 | | | \$ - |
| 16 | | | \$ - | 40 | | | \$ - |
| 17 | | | \$ - | 41 | | | \$ - |
| 18 | | | \$ - | 42 | | | \$ - |
| 19 | | | \$ - | 43 | | | \$ - |
| 20 | | | \$ - | 44 | | | \$ - |
| 21 | | | \$ - | 45 | | | \$ - |
| 22 | | | \$ - | 46 | | | \$ - |
| 23 | | | \$ - | 47 | | | \$ - |
| 24 | | | \$ - | 48 | | | \$ - |

Approved By:

RECIPIENT

BRANCH BANKING AND TRUST

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____