VDA-EEN

**ESTABLISHMENT OF ESCROW AMOUNT NOTICE**

**PURSUANT TO 12 Del. C. §§ 1147 AND 1173**

Dear [PURCHASING ENTITY] (“Purchaser”):

Take notice that under the authority of 12 Del. C. §§ 1147 AND 1173, the State of Delaware, by and through the Delaware Secretary of State (“State”), acting by its undersigned duly authorized representative, has determined from a review of information and documentation provided to it pursuant to the Voluntary Disclosure Agreement (“Agreement”) Form VDA-1M&A that [TARGET] (“Target”) is liable for a deficiency in reported Abandoned or Unclaimed Property.

Pursuant to the terms of the Agreement and 12 Del. C. §1147, the State agrees to limit any successor liability of Purchaser related to its acquisition of Target to [$X]. There is no legal requirement to maintain these funds in a separate account, but the State suggests that purchase price proceeds be escrowed in this amount because as of the date of acquisition of Target, Purchaser becomes responsible for any historic Abandoned and Unclaimed Property liabilities of Target capped at this amount.

As is provided in the Agreement executed by Purchaser to enter into a Voluntary Disclosure Closing Agreement, Purchaser may choose to pay the abandoned or unclaimed property liability listed in this document or complete a self-review of Target’s books and records following its acquisition. Should Purchaser choose this self-review, it agrees to file reports for all abandoned property related to all transaction years beginning [January 1, 2008 for a VDA-1M&A submitted in 2023] (i.e., property presumed abandoned pursuant to the Abandoned or Unclaimed Property Law) to the present. Purchaser’s self-review shall be completed in a manner which is consistent with the “Department of State Abandoned or Unclaimed Property Voluntary Disclosure Agreement Program Regulations Relating to Estimation,” the “Secretary of State’s Implementing Guidelines Abandoned or Unclaimed Property Voluntary Disclosure Agreement Program” and the associated deliverables as outlined in these documents.

Purchaser is reminded that holders at all times assume the applicable reporting responsibilities for abandoned and unclaimed property amounts where names and addresses do exist which may be due or payable to other states; these amounts are not subject to any release and indemnification provisions received through this program.

At the time of acquisition of Target, Purchaser is obligated to inform the State if Target, or any subsidiary and/or related entity participating, is ineligible pursuant to 12 Del. C. §1173(e) or any other provision of Delaware law, in which case the Agreement Form VDA-1M&A enrollment shall be deemed null and void only with respect to those entities which are deemed ineligible to participate.

The Form VDA-1M&A Agreement will automatically terminate and this Notice will have no effect on Purchaser, Seller, or Target, if Purchaser fails to acquire Target, which shall be evidenced by Purchaser’s delivery of written notice thereof to State.

Communication should be sent via e-mail to SOS.VDA@delaware.gov.