

**KENTUCKY HEALTH SPA ESCROW AGREEMENT**

THIS AGREEMENT, made, executed and delivered this the \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by and between \_\_\_\_\_ of  
(Name of Health Spa Operator)

\_\_\_\_\_  
(Complete Address of Health Spa Operator)

as DEPOSITOR, and \_\_\_\_\_ of  
(Name of Agent)

\_\_\_\_\_  
(Complete Address of Agent)

as ESCROW AGENT, and the Commonwealth of Kentucky, Office of the Attorney General,  
hereinafter "ATTORNEY GENERAL."

WITNESSETH:

WHEREAS, Depositor desires to operate a health spa by the name of:

\_\_\_\_\_ and located at  
\_\_\_\_\_

WHEREAS, by Sections 367.905 and 367.906 of the Kentucky Revised Statutes, health spa operators are required to post a surety bond with, and in a form prescribed by, the Attorney General prior to the sale of any membership in the Commonwealth of Kentucky, to be held for the benefit of any member who suffers loss of money paid pursuant to a contract due to the insolvency of the health spa, cessation of operation of the health spa, or failure of the health spa to open for business within ninety (90) days from the sale of the first contract;

WHEREAS, Depositor desires to meet the bonding requirement by posting surety in the sum of \_\_\_\_\_ THOUSAND and NO/100 DOLLARS, \$ \_\_\_\_\_  
(Amount in words) (Amount in figures)  
money of the United States of America, with the Attorney General to be held by the Escrow Agent;

WHEREAS, the Depositor has purchased from the Escrow Agent a Certificate of Deposit

(hereinafter "Certificate") in the above principal amount, made payable to the Escrow Agent only, and the Certificate has been placed in the safe custody of the Escrow Agent;

WHEREAS, the Certificate is more particularly described as follows:

<u>DESCRIPTION &amp;</u>	<u>CERTIFICATE NO</u>	<u>DATE OF ISSUANCE</u>	<u>TERM</u>	<u>PRINCIPAL AMOUNT</u>
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AND WHEREAS, this Agreement is a supplement to the Kentucky Health Spa Bond filed by the Depositor with the Attorney General;

NOW, THEREFORE, in consideration of the premises set forth herein, the parties hereto mutually agree as follows:

1. The Escrow Agent hereby acknowledges receipt of the Certificate described above. The Escrow Agent shall exercise due care in the safekeeping and delivery of the Certificate, and shall hold it exclusively for the stated purposes of this Agreement and subject to the terms and conditions herein. The Escrow Agent shall dispose of the Certificate or the proceeds therefrom only as provided herein;
2. The Escrow Agent shall ensure that the Certificate remains in full force and effect during the term of this Agreement. The Escrow Agent may, upon notice to all parties, and upon the maturity of the Certificate, issue a new Certificate of face value equal to the outstanding amount of the bond. In the event of such issuance, the new Certificate shall replace the Certificate herein for all purposes and shall be subject to the conditions of this Agreement. As with the original Certificate, any subsequent Certificates shall be made payable to the Escrow Agent only.
3. Any interest accruing on the Certificate shall be held by the Escrow Agent, and shall not be paid to the Depositor, until such time as the Escrow Agent has received written notice from the Attorney General that the Bond has been released or forfeited, or until such time as the Certificate has matured and been replaced by a new Certificate;
4. In the event the Escrow Agent receives a written notice of forfeiture from the Attorney General, the Escrow Agent shall promptly cash the Certificate and forward to the Attorney General a Cashier's Check payable to the Commonwealth of Kentucky in the amount requested by the Attorney General in the notice, up to the principal amount of the Certificate. The Escrow Agent shall remit any accrued interest on the Certificate to the Depositor, subject to any interest penalties or other fees due and payable to the Escrow Agent. The remaining principal, if any, shall continue to be held by the Escrow Agent subject to this Agreement, until the Escrow Agent receives further written notice of forfeiture or release from the Attorney General;
5. Neither the Escrow Agent nor the Attorney General shall be liable for any loss

of interest which may result to the Depositor as a result of forfeiture;

6. The Escrow Agent shall not be liable for inquiring whether there has been performance by the Depositor or to see the application of any monies paid upon notice from the Attorney General and, in such matters, the Escrow Agent may rely upon the instructions executed by the Attorney General, his designee, or successor or the successor agency as provided by law. The Escrow Agent need not verify the apparent authority of an agent of the Attorney General in carrying out the instructions. Nothing herein shall prevent the Commonwealth from designating a person authorized to act for it in any other lawful manner;
7. If the Depositor shall faithfully and honestly fulfill all of its obligations to its health spa members in accordance with the provisions of its membership contracts and KRS Sections 367.900 to 367.930, and if no member suffers loss of money paid pursuant to a membership contract as a result of the insolvency of the health spa, cessation of operation of the health spa, or failure of the health spa to open for business within ninety (90) days from the sale of the first contract, the Attorney General shall release the Bond and promptly notify the Escrow Agent and the Depositor in writing of the release;
8. In the event the Escrow Agent receives a written notice of release from the Attorney General, the Escrow Agent shall promptly assign the Certificate free and clear to the Depositor, subject only to any interest penalties or other fees due and payable to the Escrow Agent.
9. The Certificate shall be held exclusively for the benefit of the above-mentioned health spa members. For value received, the Depositor does hereby assign, transfer, and set over to the Commonwealth of Kentucky all right, title and interest which the Depositor may have in the Certificate. The Depositor shall not pledge or encumber in any manner the Certificate, or the interest due thereon, so long as they are subject to this Agreement.
10. In the event the Escrow Agent closes or goes into receivership, any Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or National Credit Union Administration insurance proceeds paid on, to, or as a result of the Certificate, shall first be applied to cover the Certificate;
11. The Escrow Agent shall be the Attorney General's agent for holding the Certificate for the purpose of perfecting the Attorney General's security interest in the Certificate under KRS Chapter 355;
12. This agreement shall be binding upon the successors and assigns of the respective parties; and
13. Upon receipt by the Escrow Agent of written notification by the Attorney

General of the forfeiture or the release of the Bond, the Escrow Agent shall be discharged of any and all duties and liabilities arising out of or as a result of this Agreement.

SIGNED, SEALED AND DELIVERED, the day and date first above written by the appropriately authorized officers.

DEPOSITOR: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

ESCROW AGENT: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_

TITLE: Assistant Attorney General  
Consumer Protection Division