

Mortgage+Care

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«f80»

«f81»

«f82», «f83»

BUILDER'S CONTROL AGREEMENT

Client/Borrower

Date

Name/Address of Project

This is a contract to provide Disbursement Control Services between Client/Borrower and «f80» (Company)

The following are conditions that may be required by the Lender:

1. Lien Releases signed by all Contractors, sub-contractors, and those supplying materials.
2. An independent review of construction code compliance by a licensed Contractor or Engineer.

The fee charged by Company is \$75.00/hour, door to door, to be charged against a retainer of \$500.00 to be collected by Lender through close of escrow. If any of the retainer is unused, Company agrees to refund to Borrower all such sums and Borrower also agrees that Company will be paid from funds in the disbursement account if charges for services exceed the retainer amount.

The following conditions are also applicable:

- A. Reports are confidential and for the exclusive use of Lender only. These reports do not address hazardous materials and conditions or other environmental issues on the job site.
- B. The parties agree that «f80» is using its best efforts to fulfill its obligations under this agreement and is relying on information provided by others such as the Contractor, Architect and Owner. Company makes no express or implied warranty that the construction complies with local, state or federal codes or that the project can be built for the contract sums. Company provides disbursement control services and not technical inspections. Client agrees that Company shall not be responsible for errors, omissions and /or misinterpretations contained in any information or documents provided by any other parties to the various contracts, nor for the actual construction provided by the Contractor. Company personnel are Lender representatives and are not supervising or consulting architects or engineers.
- C. In no event shall West be responsible for incidental or consequential damages or commercial loss. Company's total liability for damages, costs, expenses and fees, including attorney fees, related to the services provided hereunder from any cause whatsoever and regardless of any form of action, whether in contract or in tort, shall be limited to the amount of payment made for the services provided hereunder.
- D. Client does hereby expressly agree to indemnify and hold harmless Company, its officers, employees, agents, directors, partners and subcontractors from and all damages, costs, expenses, including out of pocket litigation costs, defense and attorney's fees, claims, or demands of any nature directly or indirectly arising out of or in any way connected with the construction of the Project and any aspect thereof including, but not limited to

draw requests from the Contractor. This does not include the intentional misconduct or fraudulent conduct of Company. Client agrees to be responsible for requiring borrower to provide a Certificate of Insurance naming Company as additional insured under a liability policy which includes coverage for bodily injury and property damage in sufficient amounts acceptable to lender and Company.

E. Company has no authority to modify or approve any contracts, documents, budgets or change orders.

F. In the event legal services are required for the benefit of Company or Client in conjunction with the performance of this contract, it shall be obtained by Client who shall bear all expenses pertaining thereto.

G. In the event of a dispute concerning the reports prepared by Company, which cannot be resolved by the parties within thirty (30) days after the non-disputing party receives notice of the dispute, the dispute shall be submitted to binding arbitration. The prevailing party shall be entitled to recover all costs.

Client

Company

H. This agreement shall be construed and interpreted in accordance with the laws of the State of California.

I. The parties agree that the term Company includes Company and its subcontractors and independent contractors.

J. If construction is not complete within four months, balance of funds shall be paid to «f80», Trustee, at their request, to be applied on the loan at beneficiary's option.

Client/ Borrower

«f80»