**ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (the “Agreement”) is entered into as of \_\_\_\_, 2020 (the “Closing Date”), by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, having a business address of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Purchaser”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Attorney at Law, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Attorney, whose mailing address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Escrow Agent”).

**RECITALS**

Purchaser has agreed to purchase \_\_\_\_\_<goods>\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_as follows:

A. As further referenced in the Seller and Purchaser’s Irrevocable Corporate Purchase Offer for the sale of goods (the “ICPO”), pursuant to which Seller agrees to sell and Purchaser agrees to purchase, upon and subject to the terms and conditions set forth in their Invoice at a unit price of $\_\_\_\_\_\_\_\_\_\_ (ICPO \_#\_\_\_\_\_\_) Dated \_\_\_\_\_\_\_\_ with a total purchase price of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and evidenced by Hugo Posh Medical, LLC invoice # \_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_, the “Merchandise”).

B. Purchaser has agreed to provide and hold in escrow a total of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, representing the total purchase price and amount required for payment in full of the Invoice Amount (“Escrow Payment”).

C. The Escrow Payment shall be held by Escrow Agent and sent by Wire Transfer USD to:

Payment by wire to the Account of:

Beneficiary Name: Hugo Posh Medical, LLC

Bank Name: JPMorgan Chase Bank NA

Bank Address: 270 Park Avenue,

New York, NY 10017

Routing Number: 021000021

Account Number: 377812356

D. Timing of transfer: The same day Hugo Posh Medical LLC has provided all of 1. either proof of the SGS Certification or SGS report on the Lot referenced in this purchase order and 2. the commercial invoice for this purchase order to the Purchaser.

E. Purchaser and Escrow Agent have agreed to enter into this Agreement to set forth the terms and conditions upon which the Escrow Payment Escrows.

AGREEMENTS

NOW, THEREFORE, for and in consideration of these premises and the mutual covenants and undertakings of the parties herein, the receipt and sufficiency of which consideration is hereby acknowledged and confessed, the parties agree as follows:

ARTICLE I ESTABLISHMENT OF ESCROW

1.01 Designation of Escrow Agent. Purchaser hereby designate Escrow Agent to serve as the escrow agent for the Escrow Payment in accordance with this Agreement.

1.02 Deposit and Investment of Seller Escrow Payment. As of the Closing Date, the Escrow Payment has been deposited with Escrow Agent to be held and disbursed by Escrow Agent as provided herein. Escrow Agent shall deposit the Escrow Payment at a financial institution, the accounts of which are insured by the Federal Deposit Insurance Corporation.

ESCROW WIRE INSTRUCTION

Account Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Beneficiary Bank Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SWIFT Code/BIC: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Routing Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Account Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Bank Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Bank Officer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Bank Tel/Fax/Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1.03 Escrow Agent Fees; Waiver of Offset. All fees, if any, charged by the financial institution in which the Escrow Payment is deposited, shall be paid by Purchaser. Escrow Agent further agrees that it will not pay or attempt to pay or otherwise satisfy any claims it may have, whether arising under this Agreement or otherwise, from the Escrow Payment.

ARTICLE II DISTRIBUTION OF ESCROW PAYMENT

2.01 Escrow Payment Disbursement. The funds held by Escrow Agent will be paid and made available as follows:

Purchaser’s escrowed funds, in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ representing the total purchase price and amount required for payment in full of the Invoice Amount (“Escrow Payment”) shall be held by Escrow Agent and sent via Wire Transfer the Account of:

Beneficiary Name: Hugo Posh Medical, LLC

Bank Name: JPMorgan Chase Bank NA

Bank Address: 270 Park Avenue

New York, NY 10017

Routing Number: 021000021

Account Number: 377812356

the same day that the SGS report on the Lot referenced in the Purchase Order has produced and delivered to the Purchaser.

2.02 Cooperation. Purchaser agrees to cooperate with Escrow Agent to facilitate the disbursements and withdrawals contemplated by this Agreement. Accordingly, upon the request of Escrow Agent, Purchaser shall execute such additional instructions and directions as may reasonably be requested by Escrow Agent consistent with the terms of this Agreement.

ARTICLE III

ESCROW AGENT

3.01 Acceptance of Agreement. Escrow Agent, by reason of its consent to and execution of this Agreement, hereby agrees to act as escrow agent for the Escrow Amount in accordance with this Agreement and to be bound by this Agreement in the performance of its duties hereunder. Escrow Agent shall not, however, assume any responsibility or liability for any transaction between Seller and Purchaser other than for the performance of its obligations with respect to the Escrow Amount in accordance with this Agreement. The duties and responsibilities of Escrow Agent shall be limited to those expressly set forth herein. Escrow Agent shall not be personally liable for any act taken or omitted hereunder or taken by it in good faith and in the exercise of its own best judgment.

3.01 Limited Responsibilities. Escrow Agent shall be under no responsibility in respect of the Escrow Amount other than faithfully to follow the instructions contained herein. Escrow Agent may consult with counsel of its own choosing and shall be fully protected in any action taken in good faith, in accordance with such consultation. Escrow Agent shall not be required to defend any legal proceedings that may be instituted and shall be indemnified by Purchaser, jointly and severally, to its satisfaction against the cost and expense of such defense. Escrow Agent shall have no responsibility for the genuineness or validity of any document or other item presented to or deposited with Escrow Agent and it shall be fully protected in acting in accordance with written instructions to it hereunder and believed by Escrow Agent to have been signed by the proper parties. Escrow Agent is not required to be familiar with the provisions of any other instrument or agreement and shall not be charged with any responsibility or liability in connection with the observance or nonobservance by any person having duties or obligations under any such instrument or agreement.

3.03 Indemnification. Except for claims, liabilities, judgments, or expenses incurred by the parties due to a grossly negligent or willful act of Escrow Agent in the performance of its obligations hereunder, Purchaser shall indemnify, protect and save Escrow Agent harmless from any claims, liabilities, judgments, reasonable attorneys' fees, and other expenses of any kind and nature that may be incurred by Escrow Agent by reason of its acceptance of, and its good faith performance under, this Agreement.

3.04 Compliance with Order of Court. Escrow Agent is hereby expressly instructed by Purchaser to comply with and obey all orders, judgments or decrees of any court and in case Escrow Agent complies with any such order, judgment or decree, Escrow Agent shall not be liable to Seller or Purchaser or to any other person or entity by reason of compliance. In complying with the foregoing, if Escrow Agent becomes or is made a party to any court proceeding which affects this Agreement, Escrow Agent shall promptly give notice thereof to Purchaser. If Escrow Agent receives any such order from any court, to the extent possible and consistent with the language of such order, Escrow Agent may delay compliance until Seller and Purchaser have had an opportunity to advise Escrow Agent of the respective position of each of Seller and Purchaser with regard to compliance.

3.05 Disputes. If a dispute arises as to the duties of any party under the terms of this Agreement, Escrow Agent may file suit in interpleader for the purpose of having the respective rights of Escrow Agent, Seller and Purchaser adjudicated. Upon filing its complaint in interpleader, Escrow Agent shall be relieved from all liability under the provisions of this Agreement and the parties hereto shall reimburse Escrow Agent for its reasonable costs thereof, including reasonable attorneys’ fees.

ARTICLE 4 NOTICES

4.01 Method of Notice. Any notice, communication, request, reply or advice (collectively, “Notice”) provided for or permitted by this Agreement to be made or accepted by either party must be in writing. All Notices required or permitted to be given under this Agreement must be delivered to the following addresses (a) personally, by hand delivery; (b) by Federal Express or a similar internationally recognized overnight courier service; or (c) by email, provided that a confirmation copy is delivered within one (1) Business Day by another method permitted under this Section. All such Notices shall be deemed to have been given for all purposes of this Agreement upon the date of receipt or refusal, except that whenever under this Agreement a Notice is either received on a day which is not a business day or is required to be delivered on or before a specific day which is not a Business Day, the day of receipt or required delivery shall automatically be extended to the next Business Day. Notice given by electronic mail in accordance herewith shall be effective upon the entrance of such electronic mail into the information processing system designated by the recipient's electronic mail address. Except for electronic mail notices as described above, no Notice hereunder shall be effective if sent or delivered by electronic means. In no event shall this Agreement be entered into, executed, terminated, altered, amended or modified by electronic mail or electronic record. Copies of Notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. For the purposes of Notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

Purchaser: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Escrow Agent: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4.02 Change of Address. The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by at least five (5) days written notice to the other party.

ARTICLE 5 MISCELLANEOUS

5.01 Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the Escrow Amount and supersedes and replaces any prior oral or written communications between Seller and Purchaser with respect to the Escrow Payment and Escrow Agent. This Agreement may be amended only by written agreement signed by Purchaser and Escrow Agent.

5.02 Governing Law. This Agreement is to be construed in accordance with the laws of the State of \_\_\_\_\_\_\_\_\_\_. Each party to this Agreement:

(a) irrevocably submits to the exclusive jurisdiction of the courts of \_\_\_\_\_\_\_\_\_\_. and any state appellate court therefrom within the State of \_\_\_\_\_\_\_\_\_\_. for the purpose of any legal proceeding directly or indirectly based upon, relating to, or arising out of this Agreement or any transaction contemplated hereby; or the negotiation, execution or performance hereof and irrevocably agrees that all claims in respect of such action or proceeding shall be brought in, and may be heard and determined, exclusively in such state;

(b) irrevocably consents to the service of the summons and complaint and any other process in any other action or proceeding relating to the transactions contemplated by this Agreement, on behalf of itself or its property, by personal delivery of copies of such process to such party at the addresses set forth herein, provided that nothing in this Section shall affect the right of any party to serve legal process in any other manner permitted by law;

(c) acknowledges and agrees that any controversy which may arise under this Agreement is likely to involve complicated and difficult issues, and therefore each such party hereby irrevocably and unconditionally waives any right such party may have to a trial by jury in any legal proceeding directly or indirectly based upon, relating to or arising out of this Agreement or any transaction contemplated hereby or the negotiation, execution or performance hereof or thereof.

5.03 Binding Effect. This Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

5.04 Attorneys' Fees. The prevailing party in any litigation between the parties arising under this Agreement shall be entitled to recover reasonable attorneys' fees. Further, the Purchaser shall be responsible for and pay Escrow Agent all costs, including attorney’s fees, that Escrow Agent will incur if the Escrow Funds must be interpleaded into a court of competent jurisdiction.

5.05 Headings. The article headings contained herein are for purpose of identification only and shall not be considered in construing this Agreement.

5.06 Termination. This Agreement will be automatically terminated upon disbursement of the Escrow Funds and following such termination this Agreement shall be of no further force or effect, and no further fees or expenses shall be invoiced by the Escrow Agent pursuant hereto except for unbilled fees or expenses incurred by the Escrow Agent prior to such time.

5.07 Counterparts. This Agreement may be executed in multiple counterparts, all of which together shall constitute a complete instrument. A copy of this Agreement delivered by telecopy transmission shall have the effect of an original hereof.

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| **PURCHASER:**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **On Behalf of: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  Escrow Agent  **Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |