

## ESCROW AGREEMENT

**THIS ESCROW AGREEMENT** ("Agreement") is entered into as of the 9<sup>th</sup> day of February, 2016, by and between GATLIN GROUP HOLDINGS, LLC, a Florida limited liability company ("Gatlin Group"), and PORTOFINO ISLES COMMUNITY DEVELOPMENT DISTRICT, a unit of special purpose local government established pursuant to Chapter 190, Florida Statutes (the "CDD"), and BILLING, COCHRAN, LYLES, MAURO & RAMSEY, P.A. ("Escrow Agent").

### RECITALS:

**WHEREAS**, Gatlin Group and the CDD have agreed that the CDD will permit Gatlin Group to include, as part of its Land Use Amendment Application, with the City of Port St. Lucie, Florida, a portion of the CDD property in its Land Use Amendment Application in order to allow Gatlin Group to have a maximum of 200 residential units on the Gatlin Group property.

**WHEREAS**, in return for allowing a portion of the CDD property to be included in the Land Use Amendment Application Gatlin Group has agreed to (i) make a onetime payment of \$50,000.00 to the CDD for purposes of offsetting impacts of the proposed development of the Gatlin Group property to the Portofino Community, the payment of which in no way shall be construed as conveying any real property to Gatlin Group; and (ii) to execute and record, in the public records of St. Lucie County, Florida, a Declaration of Restrictions in order to comply with the conditions agreed upon with the CDD.

**WHEREAS**, in accordance with the understanding between the parties, Gatlin Group has agreed to deposit with Escrow Agent the \$50,000.00 payment and the fully executed original of the Declaration of Restrictions (collectively, the "Escrow Items").

**WHEREAS**, Gatlin Group and the CDD desire that Escrow Agent hold the Escrow Items in escrow, subject to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the covenants and agreements herein set forth and other good and lawful consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

**I. Escrow**

- A. The above recitals are true and correct and are incorporated herein by reference.
- B. Escrow Agent agrees to hold all of the Escrow Items in escrow subject to the terms and conditions contained in this Agreement.

- C. Escrow Agent shall not be deemed to have knowledge of any matter or thing unless and until Escrow Agent has actual knowledge of such matter or thing, and Escrow Agent shall not be charged with any constructive notice or knowledge whatsoever.

## **II. Release of Escrow Items**

In the event that Escrow Agent receives written notice from Gatlin Group, that Gatlin Group has received non-appealable approval of its Land Use Amendment, the Escrow Agent shall:

- A. Release the \$50,000.00 payment, to the CDD, within five (5) days after Escrow Agent has received said written notice from Gatlin Group; and
- B. Record, in the public records of St. Lucie County, Florida, the Declaration of Restrictions within five (5) days after Escrow Agent has received said written notice from Gatlin Group.

## **III. Return of Escrow Items**

In the event that Escrow Agent receives written notice from Gatlin Group that either, (i) its request for the Land Use Amendment has been denied, or (ii) has been withdrawn, or (iii) receives written notice from the CDD that the CDD has withdrawn its permission from Gatlin Group to include a portion of CDD's property from the Land Use Plan Amendment the Escrow Agent shall:

- A. Return the \$50,000.00 payment, to Gatlin Group, within five (5) days after Escrow Agent has received said written notice from Gatlin Group; and
- B. Return the Declaration of Restrictions within five (5) days after Escrow Agent has received said written notice from Gatlin Group.

## **IV. Liability of Escrow Agent**

- A. Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statements or assertion contained in such writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any written instructions delivered to it; nor as to the identity, authority, or rights of any person executing the same and shall otherwise not be liable for any mistakes of fact or error of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct or gross negligence.

- B. It is agreed that the duties of Escrow Agent are purely ministerial in nature and shall be expressly limited to the safekeeping of the Escrow Items and for the disposition of same in accordance with this Agreement. Each party hereby agrees to indemnify, defend and hold Escrow Agent harmless from and against any and all claims, liabilities, damages, costs, penalties, losses, actions, suits or proceedings at law or in equity, or any other expenses, fees or charges of any character or nature (including, without limitation, reasonable attorneys' fees, paralegals' fees and costs incurred in all trial and appellate proceedings or otherwise if no litigation is instituted) which it may incur or with which it may be threatened directly or indirectly arising from or in any way connected with this Agreement or which may result from Escrow Agent's performance of its duties hereunder.

#### V. Disputes

- A. In the event Escrow Agent is joined as a party to a lawsuit by virtue of the fact that it is holding the Escrow Items, Escrow Agent shall, at its option, either: (i) tender the Escrow Items to the registry of the appropriate court; or (ii) disburse the Escrow Items in accordance with the court's ultimate disposition of the case, and the parties hereby, jointly and severally, indemnify, defend and hold Escrow Agent harmless from and against any damages or losses in connection therewith including, but not limited to, reasonable attorneys' and paralegals' fees and court costs at all trial and appellate levels.
- B. In the event Escrow Agent tenders the Escrow Items to the registry of an appropriate court and files an action of interpleader naming the parties and any affected third parties of whom Escrow Agent has received actual notice, Escrow Agent shall be released and relieved from any and all further obligation and liability hereunder or in connection herewith and the parties hereby, jointly and severally, indemnify, defend and hold Escrow Agent harmless from and against any damages or losses arising in connection therewith, including, but not limited to, all costs and expenses incurred by Escrow Agent in connection with the filing of such action, including, but not limited to, attorneys' and paralegals' fees and court costs at all trial and appellate levels.

#### VI. Notices

All notices, requests, consents, instructions and communications required or permitted under this Agreement shall be in writing (including telecopy) and shall be (as elected by the person giving such notice) hand-delivered by messenger or overnight courier service, telecommunicated, telecopied or mailed (air mail if international) by registered or certified mail (postage prepaid), return receipt requested, and addressed to each party at their respective addresses as set forth below or any other addresses any party may designate by notice complying with the terms of this Section.

As to Gatlin Group:

Hal R. Dodt  
Gatlin Group Holdings II, LLC  
5332 SW Orchid Bay Drive  
Palm City, Florida 34990  
Telephone: 772-781-5805  
721-9202  
E-mail: haldodt@me.com

With Copy to Gatlin  
Group's Counsel:

Robert S. Raynes, Jr., Esq.  
Gunster Yoakley & Stewart, P.A.  
800 SE Monterey Commons Blvd., Suite 200  
Stuart, FL 34990  
Telephone: (772) 288-1980  
Facsimile: (772) 288-0610  
E-mail: rraynes@gunster.com

As to CDD:

Portofino Isles Community Development District  
5385 N. Nob Hill Road  
Sunrise, Florida 33351  
Telephone: (954) 721-8681  
Facsimile (954) 721-9202

With Copy to  
CDD's Counsel:

Gerald L. Knight, Esq.  
Billing, Cochran, Lyles, Mauro & Ramsey, P.A.  
SunTrust Center, 6<sup>th</sup> Floor  
515 East Las Olas Boulevard  
Fort Lauderdale, FL 33301  
Telephone: (954) 764-7150  
Facsimile: (954) 764-7279  
E-mail: gknight@bclmr.com

## **VII. Choice of Law and Venue**

This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event any action, suit or proceeding is instituted as a result of any matter or thing affecting this Agreement, the parties hereto hereby designate St. Lucie County, Florida as the proper jurisdiction and the venue in which same is to be instituted.

## **VIII. Binding Agreement**

This Agreement shall be binding upon the parties and Escrow Agent and their respective successors and assigns. This Agreement may be executed in counterparts, all of which counterparts shall be deemed to be a single document. Signature pages received by facsimile transmission shall be deemed to be an original document.

**IX. Entire Agreement**

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any and all other written or oral agreements, documents, memoranda, understandings or otherwise between the parties relating to the subject matter hereof. A facsimile copy of this Agreement and any signatures hereon shall be considered for all purposes as originals.

**X. WAIVER OF JURY TRIAL**

THE PARTIES EACH HEREBY MUTUALLY, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT ANY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON OR ARISING OUT OF OR UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OR CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTION OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

**[SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year set forth above.

**ESCROW AGENT:**

Billing, Cochran, Lyles, Mauro & Ramsey, P.A.

By: Gerald J. Knight  
Name: Gerald C. Knight  
Title: Partner

**GATLIN GROUP:**

Gatlin Group Holdings, LLC, a Florida limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Secretary/Assistant Secretary

**CDD:**

Portofino Isles Community Development District

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chairperson

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year set forth above.

**ESCROW AGENT:**

Billing, Cochran, Lyles, Mauro & Ramsey, P.A.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**GATLIN GROUP:**

Gatlin Group Holdings, LLC, a Florida limited liability company

By: Harold Dodt  
Name: Harold Dodt  
Title: Managing Member

**ATTEST:**

\_\_\_\_\_  
Secretary/Assistant Secretary

**CDD:**

Portofino Isles Community Development District

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chairperson

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed the day and year set forth above.

**ESCROW AGENT:**

Billing, Cochran, Lyles, Mauro & Ramsey, P.A.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**GATLIN GROUP:**

Gatlin Group Holdings, LLC, a Florida limited liability company

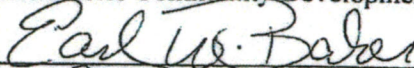
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

  
\_\_\_\_\_  
Secretary/Assistant Secretary

**CDD:**

Portofino Isles Community Development District

By:   
Name: EARL W. BAKER  
Title: Chairperson