

ESCROW AND DEPOSIT AGREEMENT

This Escrow and Deposit Agreement, dated as of May 1, 2022 (the "Agreement") by and between U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as escrow agent hereunder (the "Escrow Agent"), and LOS GATOS UNION SCHOOL DISTRICT, a school district duly organized and existing under the laws of the State of California (the "District").

WITNESSETH:

WHEREAS, on October 19, 2010, the District issued its Los Gatos Union School District (Santa Clara County, California) 2010 General Obligation Refunding Bonds in the aggregate principal amount of \$28,190,000 (the "2010 Refunding Bonds");

WHEREAS, the 2010 Refunding Bonds were issued pursuant to a resolution for issuance of the governing board of the District adopted on September 21, 2010 (the "2010 Resolution") providing, among other things, the terms of redemption thereof;

WHEREAS, on May 25, 2011, the District issued its Los Gatos Union School District (County of Santa Clara, California) Election of 2010 General Obligation Bonds, Series 2011A (Tax-Exempt) in the aggregate principal amount of \$11,360,000 (the "Series 2011A Bonds");

WHEREAS, the Series 2011A Bonds were issued pursuant to a resolution for issuance of the governing board of the District, adopted on April 19, 2011 (the "2011 Resolution" and, together with the 2010 Resolution, the "Prior Resolutions") providing, among other things, the terms of redemption thereof;

WHEREAS, the 2010 Refunding Bonds maturing on August 1, 2022 through August 1, 2026, inclusive (the "Refunded 2010 Bonds"), are subject to optional redemption on any date on or after August 1, 2020 and the Series 2011A Bonds maturing on August 1, 2026 through August 1, 2035, inclusive (the "Refunded 2011 Bonds" and, together with the Refunded 2010 Bonds, the "Refunded Bonds"), are subject to optional redemption on any date on or after August 1, 2021;

WHEREAS, the District has elected to redeem each series of the Refunded Bonds on May 13, 2022 (the "Redemption Date") at a redemption price for each series of the Refunded Bonds equal to 100% of the principal amount thereof to be redeemed, without premium (the "Redemption Price");

WHEREAS, in order to provide for the payment of interest on the Refunded Bonds to, and redemption of the Refunded Bonds on, the Redemption Date, the District has issued \$[PAR AMOUNT] aggregate principal amount of its Los Gatos Union School District (Santa Clara County, California) 2022 General Obligation Refunding Bonds (the "Refunding Bonds");

WHEREAS, the Escrow Agent is the successor-in-interest to the Paying Agent for the Refunded Bonds ("Paying Agent");

WHEREAS, the District wishes to provide for the application of the net proceeds of the Refunding Bonds, to effect the refunding of the Refunded Bonds; and

NOW, THEREFORE, the District and the Escrow Agent agree as follows:

AGREEMENT

ARTICLE I

REPRESENTATIONS, WARRANTIES AND AGREEMENTS

Each party hereto, as to itself and not as to the other party, hereby represents, warrants and agrees that:

Section 1.1 Authorization. The execution, delivery and performance of this Agreement by such party are within such party's respective powers and have been duly authorized by all necessary action of such party.

Section 1.2 No Conflict. The District represents, warrants and agrees to its current actual knowledge that the execution, delivery and performance of this Escrow Agreement will not violate or conflict with (i) the Prior Resolutions or any Resolution of the District; (ii) the Constitution or laws of the State of California; or (iii) any decisions, statutes, ordinances, rulings, directions, rules, regulations, orders, writs, decrees, injunctions, permits, certificates or other requirements of any court or other governmental or public entity with jurisdiction over the District or its operations.

The Escrow Agent represents and warrants that the execution, delivery and performance of this Escrow Agreement will not violate or conflict with (i) the articles of association or bylaws of the Escrow Agent; and (ii) any decisions, statutes, ordinances, rulings, directions, rules, regulations, orders, writs, decrees, injunctions, permits, certificates or other requirements of any court or other governmental or public entity with jurisdiction over the trust powers and operation of the Escrow Agent.

Section 1.3 Binding Obligation. This Escrow Agreement has been duly executed by, and is a legally valid and binding obligation of each party, enforceable against such party in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights, and by general principles of equity.

Section 1.4 Title to Moneys Deposited in Escrow. The District has good, sufficient and legal title to the moneys deposited in the Escrow Fund established hereunder free and clear of all liens other than those created hereby.

ARTICLE II

ESTABLISHMENT OF ESCROW FUND

Section 2.1 Creation of Escrow Fund. The Escrow Agent is hereby directed to establish a special escrow fund to be designated as the "2022 General Obligation Refunding Bonds Escrow Fund" (the "Escrow Fund"), into which the Escrow Agent shall deposit proceeds of the Refunding Bonds in the amount of \$15,707,571.05 (the "Escrow Deposit"). The Escrow Agent agrees to hold the Escrow Deposit in cash, uninvested. The Escrow Agent is hereby irrevocably directed by the District to make the deposit and investments, if any, as set forth herein.

Section 2.2 [RESERVED].

Section 2.3 Investments. Except as otherwise expressly provided in Sections 2.1 hereof, the Escrow Agent shall have no power or duty to invest any moneys held hereunder or to pay interest on any such moneys not required to be invested hereunder.

Section 2.4 Terms of Prior Resolutions and Refunded Bonds. Receipt is hereby acknowledged by the Escrow Agent of a copy of the Prior Resolutions. Reference herein to, or citation herein of, any provision of the Prior Resolutions or the terms of the Refunded Bonds shall be deemed to be incorporated as a part hereof in the same manner and with the same effect as if they were fully set forth herein.

Section 2.5 Deposit of Funds. The Escrow Agent hereby acknowledges receipt of the deposit of the moneys into the Escrow Fund as described in Section 2.1 hereof.

Section 2.6 Purpose of Deposit. The deposit by the District of the Escrow Deposit in the Escrow Fund shall constitute an irrevocable deposit thereof for the uses and purposes specified in this Agreement and in the provisions of Prior Resolutions expressly referred to herein, and such moneys and all interest thereon shall be held in trust and applied solely for such uses and purposes. The Escrow Deposit, along with the proceeds of investment thereof, shall be held by the Escrow Agent separate and apart from all other funds and shall not be commingled with other moneys for any purpose.

Section 2.7 Redemption of Refunded Bonds. (a) Not later than the date(s) on which any payment on any of the Refunded Bonds is required to be made, as set forth on **Schedule A**, or if such date is not a Business Day (which shall mean any day other than a Saturday or Sunday on which the Escrow Agent and banks and trust companies located in New York, New York, or San Francisco, California are not authorized or required to remain closed and on which the New York Stock Exchange is open) then not later than the Business Day next preceding such date, the Escrow Agent shall transmit, from the funds in the Escrow Fund, the applicable amount as set forth in **Schedule A** attached hereto. The Escrow Agent may conclusively rely upon **Schedule A** with respect to all information set forth therein.

(b) If at any time it shall appear to the Escrow Agent that the money in the Escrow Fund will not be sufficient to make all payments required hereunder, the Escrow Agent shall give notice thereof to the District in accordance with Section 5.4 hereof of the amount of such deficiency and the District agrees to pay the amount of such deficiency into the Escrow Fund from any source of lawfully available moneys. In no event shall the Escrow Agent be responsible or liable for such deficiency of funds.

(c) Any moneys held by the Escrow Agent in trust for the redemption of the Refunded Bonds which remain unclaimed for 18 months after the date when all of the principal of and interest on the Refunded Bonds has become due and payable, shall be paid to the District (without liability for interest) to be used for any of its lawful purposes and the Escrow Agent shall thereupon be released and discharged with respect thereto.

Section 2.8 Redemption Notice to Owners of Refunded Bonds. The District has previously directed the Paying Agent in writing, acknowledgment of which is hereby made by the Paying Agent, to send a conditional notice of redemption to the Owners of the Refunded Bonds of each series, in accordance with the provisions of the respective Prior Resolution.

Section 2.9 Compensation; Indemnification. (a) The District agrees to pay and shall pay to the Escrow Agent as compensation in full for all services to be rendered by the Escrow Agent under this Agreement the amounts set forth in a separate schedule of fees and expenses, as modified from time to time as agreed upon with the District, and shall reimburse the Escrow Agent as set forth in such separate schedule for its expenses (including legal fees and expenses) incurred hereunder. Any payment to the Escrow Agent pursuant to this paragraph shall be made from any moneys of the District lawfully available therefor, but the Escrow Agent shall have no lien whatsoever upon any of the moneys or Escrowed Securities in the Escrow Fund for any such payment.

(b) To the extent authorized by law, the District assumes liability for and agrees to indemnify, protect, save and keep harmless the Escrow Agent and its respective successors, assigns, agents, officers, directors, employees and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, at any time, the District or the Escrow Agent (whether or not also indemnified against by any person under any other contract or instrument) and in any way relating to or arising out of the execution and delivery of this Agreement, the acceptance and performance of the duties and obligations of the Escrow Agent hereunder, the establishment of the Escrow Fund, the acceptance of the moneys deposited in such fund, the retention of such moneys or the proceeds thereof and any payment, transfer or other application of moneys or securities by the Escrow Agent in accordance with the provisions of this Agreement, provided, that the District shall not be required to indemnify, protect, save and keep harmless the Escrow Agent against its own negligence. In no event shall the District be liable to any person by reason of the transactions contemplated hereby other than to the Escrow Agent as set forth in this paragraph. The indemnities contained in this paragraph shall survive the termination of this Agreement, or the earlier removal or resignation of the Escrow Agent.

Section 2.10 Books and Records; Limited Liability. (a) The Escrow Agent agrees to maintain books and records for the Escrow Fund and to account separately for deposits therein, investments thereof, earnings thereon and losses (if any) with respect thereto. The Escrow Agent shall only act in accordance with the specific provisions set forth herein and shall not assume any implied duties or obligations hereunder.

(b) The Escrow Agent shall have no obligation to make any payment or disbursement of any type or risk or incur any financial liability in the performance of its duties under this Agreement unless the District shall have deposited sufficient funds therefor with the Escrow Agent. The Escrow Agent may rely and shall be protected in acting upon the written or oral instructions of authorized representatives of the District or of their respective agents relating to any matter or action undertaken as Escrow Agent under this Agreement.

(c) The Escrow Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Agreement and delivered using Electronic Means ("Electronic Means" means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Escrow Agent, or another method or system specified by the Escrow Agent as available for use in connection with its services hereunder); provided, however, that the District shall provide to the Escrow Agent an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the District,

whenever a person is to be added or deleted from the listing. If the District elects to give the Escrow Agent Instructions using Electronic Means and the Escrow Agent in its discretion elects to act upon such Instructions, the Escrow Agent's understanding of such Instructions shall be deemed controlling. The District understands and agrees that the Escrow Agent cannot determine the identity of the actual sender of such Instructions and that the Escrow Agent shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Escrow Agent have been sent by such Authorized Officer. The District shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Escrow Agent and that the District and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the District. The Escrow Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Agent's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The District agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Escrow Agent, including without limitation the risk of the Escrow Agent acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Escrow Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the District; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Escrow Agent immediately upon learning of any compromise or unauthorized use of the security procedures.

(d) None of the provisions of this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of its duties hereunder. The liability of the Escrow Agent for the payment of moneys as hereinabove set forth respecting the redemption of the Refunded Bonds shall be limited to the amounts deposited in the Escrow Fund established hereunder. The Escrow Agent shall not be liable for any loss resulting from any investment, sale, transfer, prepayment, substitution or other disposition made pursuant to this Agreement in compliance with the provisions hereof or the sufficiency of the moneys held hereunder to accomplish the redemption of the Refunded Bonds. The Escrow Agent shall not have any lien whatsoever upon any of the moneys deposited in accordance with Section 2.1 hereof for the payments of fees and expenses for services by it under this Agreement until after all payments required pursuant hereto in accordance herewith. The recitals of fact contained in the "whereas" clauses herein shall be taken as the statements of the District, and the Escrow Agent assumes no responsibility for the correctness thereof. The Escrow Agent makes no representations as to the sufficiency of the Escrowed Securities to be purchased pursuant hereto and any uninvested moneys to accomplish the refunding of the Refunded Bonds or to the validity of this Agreement as to the District and, except as otherwise provided herein, the Escrow Agent shall incur no liability in respect thereof. The Escrow Agent shall not be liable in connection with the performance of its duties under this Agreement except for its own negligence, willful misconduct, and the duties and obligations of the Escrow Agent shall be determined by the express provisions of this Agreement. The Escrow Agent may consult with counsel, who may or may not be bond counsel to the District, and in reliance upon the written opinion of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Agent shall deem it necessary or desirable that a matter be provided or established prior to taking, suffering, or omitting any action under this Agreement, such matter (except the matters set forth herein as

specifically requiring a certificate of a nationally recognized firm of independent certified public accountants or an opinion of counsel) may be deemed to be conclusively established by a written certification of the District. The Escrow Agent undertakes such duties as are expressly set forth herein, and no implied duties or obligations of the Escrow Agent shall be read into this Agreement. The District hereby agrees to indemnify and hold harmless the Escrow Agent against any and all liability incurred by the Escrow Agent arising from this Agreement and not resulting from its own negligence or willful misconduct. The obligations of the District hereunder shall survive the termination or discharge of this Agreement.

(e) The Escrow Agent may conclusively rely and shall be fully protected in acting or refraining from acting upon the Prior Resolutions, or any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Escrow Agent may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care, and shall not be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed.

(f) Anything in this Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action. The Escrow Agent shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Escrow Agent and could not have been avoided by exercising due care. Force majeure shall include acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics, pandemics, or other similar occurrences.

(g) The Escrow Agent may at any time resign by giving 30 days written notice of resignation to the District. Upon receiving such notice of resignation, the District shall promptly appoint a successor and, upon the acceptance by the successor of such appointment, release the resigning Escrow Agent from its obligations hereunder by written instrument, a copy of which instrument shall be delivered to each of the District, the resigning Escrow Agent and the successor. If no successor shall have been so appointed and have accepted appointment within 30 days after the giving of such notice of resignation, the resigning Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor.

(h) Any bank, corporation or association into which the Escrow Agent may be merged or converted or with which it may be consolidated, or any bank, corporation or association resulting from any merger, conversion or consolidation to which the Escrow Agent shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Escrow Agent shall be the successor of the Escrow Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

ARTICLE III

TERMINATION OF ESCROW AGREEMENT

Section 3.1 Termination of Escrow Agreement. It is the intention of the District that amounts in the Escrow Fund shall be applied to the payment of interest on the Refunded Bonds to, and redemption of the Refunded Bonds on, the Redemption Date in accordance with the terms of the Prior Resolutions. The Escrow Agent agrees to apply the amounts deposited in the Escrow Fund to the payment of interest on the Refunded Bonds to, and redemption of the Refunded Bonds on, the Redemption Date as aforesaid; any moneys remaining in the Escrow Fund following redemption of the Refunded Bonds, shall, after payment of any amounts due the Escrow Agent, be transferred to the District. Upon the completion of such transfer, if any, this Escrow Agreement shall be terminated and of no further force or effect except for those provisions which, by their terms, survive.

ARTICLE IV

FEES OF ESCROW AGENT

Section 4.1 Fees of Escrow Agent. The District shall pay to the Escrow Agent fees and expenses as are mutually agreed upon by the District and the Escrow Agent as and for payment in full for the services of the Escrow Agent as escrow holder hereunder, through the redemption of the Refunded Bonds as set forth herein.

It is also understood that the fee agreed upon for the services of the Escrow Agent hereunder shall be considered compensation for its ordinary services as contemplated by this Agreement, but in the event that the conditions of this Agreement are not promptly fulfilled or that the Escrow Agent renders any service hereunder not provided for in the foregoing instructions or that there is an assignment of any interest in the subject matter of this escrow, or modification hereof, or that any controversy arises hereunder or that the Escrow Agent is made a party to, or intervenes in, or, in good faith, interpleads in, any litigation pertaining to this escrow or the subject matter thereof, the Escrow Agent shall be reasonably compensated by the District for such extraordinary services and reimbursed for all costs and expenses, plus interest charged at the maximum rate permitted by law occasioned by such default, delay, controversy or litigation, including, without limitation, the fees and disbursements of legal counsel to the Escrow Agent.

Under no circumstances shall the Escrow Agent be entitled to assert a lien against the amounts held in the Escrow Fund to provide security for the payment of the fees described in this Section.

ARTICLE V

MISCELLANEOUS

Section 5.1 Severability of Provisions. If any one or more of the covenants or agreements provided in this Agreement on the part of the parties hereto to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

Section 5.2 Execution in Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as an original and shall constitute and be but one and the same instrument.

Section 5.3 Applicable Law. This Agreement shall be governed by the applicable laws of the State of California, applicable to contracts made and performed in said State.

Section 5.4 Notices. All notices, demands and formal actions under this Agreement shall be in writing and mailed, telegraphed or delivered to:

The District: Los Gatos Union School District
17010 Roberts Road
Los Gatos, CA 95032
Attention: Chief Business Official

The Escrow Agent: U.S. Bank Trust Company, National Association
1 California Street, 10th Floor
San Francisco, CA 94111
Attention: Global Corporate Trust

Section 5.5 Amendments. This Agreement may be modified or amended at any time by a supplemental agreement which shall become effective with the written consent of the District and the Escrow Agent. Such supplemental agreement shall not materially adversely affect the rights of the holders of the Refunded Bonds (as evidenced by an opinion of counsel delivered to the Escrow Agent) without the written consent of 100% of the holders of the Refunded Bonds.

IN WITNESS WHEREOF, the District and the Escrow Agent have entered into this Escrow and Deposit Agreement as of the date first above written.

LOS GATOS UNION SCHOOL DISTRICT

By: _____
Terese McNamee
Chief Business Official

ACKNOWLEDGED AND ACCEPTED BY:

**U.S. BANK TRUST COMPANY,
NATIONAL ASSOCIATION**, as Escrow
Agent

By: _____
Authorized Officer

SCHEDULE A

PAYMENT SCHEDULE

Refunded 2010 Bonds

<u>Payment Date</u>	<u>Payment Amount</u>
May 13, 2022	\$9,875,284.79

Refunded 2011 Bonds

<u>Payment Date</u>	<u>Payment Amount</u>
May 13, 2022	\$5,832,285.42