

PRIVATE & CORPORATE SERVICES

ESCROW SERVICES GUIDE



WHAT IS AN ESCROW?

International cross border transactions can be difficult operations when there is no practical way to verify the performance of one party or another in a reasonable time frame and when a certain number of obligations need to be fulfilled before a payment is released.

An escrow is a financial arrangement where an independent third party holds and regulates payment of the funds required by parties involved in a transaction. It ensures transactions are more secure by holding the funds in a secure escrow account which is only released when the terms of the agreement are met as overseen by the escrow company.

Acting as a third-party custodian of property, documents and/or funds, an escrow agent provides the security for a compromise by allowing the other parties in the transaction to verify and confirm the performance of certain obligations.

When providing escrow services, maintaining neutrality is essential to gaining the trust and confidence of all parties; each party feels represented, with no surprises or perceptions of unfair treatment.

As a licensed trust and corporate service provider, Chandrawat & Partners assumes the role and responsibility of an Escrow Agent.



Escrow arrangement is often used as a part of mergers and acquisitions a supplement that warranties and indemnities offered by the seller(s).



ESCROW MECHANISM

In an escrow agreement, one party, usually a depositor, deposit funds or an asset with the escrow agent until the contract is fulfilled. Once the contractual conditions are met, the escrow agent will deliver the funds or other assets to the beneficiary.

Escrow arrangements typically require specific solutions, either simple or highly customized. The parties to the escrow should ensure the customization, accuracy, and efficiency with each type of transaction put under an escrow mechanism. As such the escrow agreement must address certain key issues in order for a transaction to run smoothly.

Clear & Unambiguous Release Trigger and Mechanism of the Escrow Assets

The release of the escrow assets should be simple and straightforward with a clearly defined release trigger, whether this is based on a signed instruction from one or both parties, or an external confirmation, an event related to the specifics of the operation, a court order or similar.

A long-stop date within which this release trigger must be achieved should also be included along with clear instructions where to deliver the escrow deposit after expiry of the long-stop date.

Governing Law and Dispute Resolution

Chandrawat & Partners and its bank accounts are situated in Hong Kong. The escrow agreement will be governed by Hong Kong law and with the Hong Kong courts and mediation/arbitration center having exclusive jurisdiction. The Hong Kong judicial system is highly effective and fast, with some of the best commercial mediators, arbitrators and judges in the world.

Amount of Escrow

It is necessary to find the right balance between the parties, for example between the buyer's and seller's position, one seeking a necessary amount covering any purchase price adjustment and liabilities that may arise and protect against unknown liabilities and the other looking to limit an amount covering those liabilities that are reasonably likely to arise.

Allocation of Escrow Agent's Fee

The responsibility for payment of the escrow fee must be clearly stated so that both the parties agree on the payment of fees.

Length of the Escrow Period

If a longer survival period is required in certain indemnification claims, the agreement must anticipate a situation when a portion of the escrow can be held for the longer period as well as to limit such amount to the survival period for the specific indemnification claims.

Other matters

Other matters to consider include; how to preserve the escrow assets through extension of the escrow term, and accrual of interest on cash deposits etc. in case of any dispute amongst the escrow parties, and which party is responsible for payment of costs or any other specific indemnities related to the operation.



ESCROW PROCESS

STEP 1 TRANSACTION AGREEMENT

- Agreement between parties of the initial Sale & Purchase / M&A transaction
- Acceptance of cash escrow system application

STEP 2 ESCROW AGREEMENT WITH C&P

- Comprehensive Due Diligence on Parties (KYC) and on transaction (KYT)
- Escrow agreement preparation with release mechanism and settlement instructions
- Validation & Signing

STEP 3 ESCROW INCOMING TRANSFER

- Funder's money being transferred and held into an escrow account

STEP 4 INITIAL TRANSACTION EXECUTION

- Seller fulfills all terms and conditions of the initial transaction
- Issuance of draw down notice (singly or jointly)

STEP 5 ESCROW OUTGOING TRANSFER

- Fund release to the designated Seller's account
- End of the Escrow agreement
- Validation & Signing



CHANDRAWAT & PARTNERS

ESCROW SERVICES

Providing escrow services and maintaining neutrality is essential to gaining the trust and confidence of all parties; each party must feel represented, with no surprises or perceptions of unfair treatment. At that point, each party looks to the escrow agent to understand the specificities of the transaction at stake.

An escrow system can be applied to a wide range of sale & purchase operations involving the custody and payment of cash, from fine art and collectibles, property and land investments, yachts and private jets, to pure commercial trading transactions and corporate M&A, as well as personal life events such as divorce and estate planning proceeds.

All require money and documentation being put at risk before a deal or a settlement can be finalized. The process involves reviewing a large volume of the transaction's components, verifying and valuing assets, revising documents, inspecting information, conducting expertise, forecasting issues, and conducting negotiations while keeping business interests protected.

For these reasons, Chandrawat & Partners is perfectly positioned. Chandrawat & Partners is a registered and licensed trust and corporate services provider, and is fully integrated into Chandrawat & Partners Group, which has a deep experience of transactions across a wide range of different domains.

Chandrawat & Partners Group offices have professional expertise in business Advisory & Management, Real Estate Management, Estate Planning, Tax & Compliance Advisory, Immigration Services, handling all important Personal and Business aspects of a Multi-Family Office.

This makes us uniquely qualified to understand and administer every detail of an escrow related transaction, bringing critical added value in complex transactions where a fiduciary or trustee is required.



Escrow services are offered by multiple bankers as an outsourced product.

Key Contact

Chandrawat
& Partners

SERVING CLIENTS WORLDWIDE



The information contained herein is of a general nature. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. The information is not offered as an advice on any matter, and no one should act or fail to act based on such information without appropriate legal advice after a thorough examination of the particular situation. The information does not make us responsible or liable for any errors and/or omissions, whether it is now or in the future. We do not assume any responsibility and/or liability for any consequences.



Surendra Singh Chandrawat

Managing Partner

✉ surendra@chandrawatpartners.com

☎ (+852) 3543 0022

☎ (+852) 9042 0000

Connect Surendra on

[LinkedIn](#)

[WhatsApp](#)

[WeChat](#)

Chandrawat & Partners is a leading full service firm providing high quality professional services through separate entities, including but not limited to Chandrawat & Partners (Hong Kong), Chandrawat & Partners Law Firm (India) (collectively "Chandrawat & Partners" or "C&P") and established in various jurisdictions and may be a legal person or partnership and representing individuals and companies into a wide range of sectors.

Copyright © 2022 | All rights reserved | Chandrawat & Partners | 815, 8/F., China Insurance Group Building, 141 Des Voeux Road, Central, Hong Kong
Tel: (+852) 3543 0022 | Fax: (+852) 3543 0077 | Email: enquiries@chandrawatpartners.com | Website: www.chandrawatpartners.com

Follow us on:

[LinkedIn](#)

[twitter](#)

[facebook](#)

[Instagram](#)