

## ESCROW AGREEMENT

This ESCROW AGREEMENT (the "Agreement") is executed this 14<sup>th</sup> day of July, 2006, by, between and among NORTH DAKOTA TELEVISION, L.L.C., a Delaware limited liability company ("NDTV"), NORTH DAKOTA TELEVISION LICENSE SUB, L.L.C., a Delaware limited liability company ("ND License"), SOUTH DAKOTA TELEVISION, L.L.C., a Delaware limited liability company ("SDTV"), SOUTH DAKOTA TELEVISION LICENSE SUB, L.L.C., a Delaware limited liability company ("SD License"; collectively referred to together with NDTV, SDTV and ND License as "Sellers" and individually as a "Seller"; HOAK MEDIA LLC, a Delaware limited liability company ("Buyer"; and JPMORGAN CHASE BANK, N.A. ("Escrow Agent").

WHEREAS, Buyer and Sellers have entered into that certain Asset Purchase Agreement dated as of the date hereof (the "Purchase Agreement"), pursuant to which Sellers have agreed to convey, transfer and deliver to Buyer certain assets used in the operation of Sellers' television broadcasting business; and

WHEREAS, the Purchase Agreement provides that to secure the obligations of Buyer under the Purchase Agreement, Buyer will deliver a deposit in the amount of Four Million Seven Hundred Fifty Thousand Dollars (\$4,750,000) (the "Escrow Deposit") upon its execution and delivery of the Purchase Agreement to secure the obligation of Buyer to close under the Purchase Agreement and to be held, drawn upon and disbursed by Escrow Agent in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

### ARTICLE I ESCROW DEPOSIT

**1.01 Delivery.** On the date hereof, Buyer is depositing in escrow with the Escrow Agent Four Million Seven Hundred Fifty Thousand Dollars (\$4,750,000) by wire transfer of immediately available federal funds. Such Four Million Seven Hundred Fifty Thousand Dollars (\$4,750,000) amount shall comprise the Escrow Deposit. Any interest or other proceeds from the investment thereof shall be referred to as the "Earnings" and collectively with the Escrow Deposit, as the "Escrow Amount."

**1.02 Receipt.** Escrow Agent will acknowledge receipt of the Escrow Deposit when the Escrow Deposit is received on the date hereof and agrees to hold, draw upon and disburse the Escrow Amount in accordance with the terms and conditions of this Agreement and for the uses and purposes stated herein.

**1.03 Investment and Income.** Escrow Agent shall, pending the disbursement of the Escrow Amount pursuant to this Agreement, invest the Escrow Amount in accordance with Buyer's instructions in (a) direct obligations of, or obligations fully guaranteed by, the United States of America or any agency thereof, (b) certificates of deposit issued by commercial banks having a combined capital, surplus and undivided profits of not less than One Hundred Million Dollars (\$100,000,000), (c) repurchase agreements collateralized by securities issued by the United States of America or any agency thereof, or by any private corporation the obligations of which are guaranteed by the full faith and credit of the United States of America, (d) prime banker's acceptances, (e)

money market funds investing solely in any of the above, or (f) other investments of equal or greater security and liquidity; provided, however, that (i) no investment shall be made in any instrument or security that has a maturity greater than three (3) months and (ii) in the absence of any such instructions from Buyer, the Escrow Amount shall be invested in investments of the type referred to in clause (e) above. The Escrow Agent shall have no liability for any loss sustained as a result of any investment in an investment described in this Section 1.03 or any investment made pursuant to the instructions of the parties hereto or as a result of any liquidation of any investment prior to its maturity or for the failure of the parties to give the Escrow Agent instructions to invest or reinvest the Escrow Fund.

**1.04 Payments and Tax Reporting of Earnings.** Any Earnings shall be reportable to Buyer for tax purposes. Buyer and Sellers, each on its own behalf, represents that its correct Taxpayer Identification Number (“TIN”) assigned by the Internal Revenue Service (“IRS”) is as set forth on its applicable, fully executed IRS Form W-9 delivered to Escrow Agent in connection herewith.

## **ARTICLE II DISBURSEMENT OF THE ESCROW AMOUNT**

Escrow Agent, subject to the provisions of Article IV, shall disburse, draw upon or release the Escrow Amount only in accordance with this Article II or Section 3.04.

**2.01 Disbursement of the Escrow Amount by Escrow Agent at Closing.** Buyer and Sellers shall keep Escrow Agent apprised regarding the scheduling of the date for the consummation of the transaction contemplated by the Purchase Agreement (the “Closing”). Contingent upon the occurrence of the Closing, and contemporaneously with the performance by Buyer and Sellers of their respective Closing obligations under the Purchase Agreement, Buyer and Sellers shall, by joint written notice sent by facsimile to Escrow Agent, notify Escrow Agent of the occurrence of the Closing and instruct the Escrow Agent to deliver the Escrow Amount to Buyer. Upon receipt of such notice, Escrow Agent shall deliver the Escrow Amount to Buyer.

**2.02 Entitlement of Sellers to Liquidated Damages.** In the event that prior to Closing Sellers shall deliver Escrow Agent written notice stating (i) that the Purchase Agreement has been terminated pursuant to Section 12.1(c), 12.1(d) or 12.1(e) of the Purchase Agreement and with respect to a termination pursuant to Sections 12.1(c) or 12.1(e), Buyer is in material breach or default of its representation, warranties, covenants or obligations under the Purchase Agreement and such breach or default caused the termination event described in Section 12.1(c) or 12.1(e) (a “Damages Event”), and (ii) that Sellers have delivered notice of such claim to Buyer, then Escrow Agent shall promptly deliver a copy of such written notice to Buyer. At any time on or before the fifth business (5<sup>th</sup>) day after Buyer is given such notice by Escrow Agent, Buyer may contest Sellers’ claim to the Escrow Deposit by written notice delivered to Sellers and Escrow Agent setting forth the grounds for such dispute. Promptly after the expiration of the five (5) business day period from the date Buyer is given such notice by Escrow Agent, if Escrow Agent shall not have, during such five (5) business day period, received from Buyer written notice disputing Sellers’ claim to the Escrow Deposit, Escrow Agent shall deliver the Escrow Deposit to Sellers by wire transfer in immediately available funds in accordance with written instructions from Sellers, as liquidated damages. Thereupon, Escrow Agent shall pay to Buyer any Earnings, subject to Section 3.02, earned prior to the disbursement of the Escrow Deposit to Sellers. Buyer and Sellers agree that the amount of the actual damages suffered by Sellers as a result of a breach by Buyer are likely to be difficult or impractical to

ascertain and, therefore, the payment of the Escrow Deposit as liquidated damages to Sellers is fair and reasonable and does not constitute a penalty. If Buyer shall deliver notice to the Escrow Agent disputing Sellers' claim to the Escrow Deposit within such five (5) business day period, Escrow Agent shall retain the Escrow Deposit until the dispute is resolved in accordance with Section 2.04 hereof. All notices to be given or permitted to be given under this Section shall be given as provided in Section 6.01 of this Agreement.

**2.03 Buyer's Right to Return of the Escrow Amount.** In the event that Buyer shall deliver Escrow Agent written notice stating (i) that the Purchase Agreement has been terminated for a reason other than a Damages Event, (ii) that Buyer is entitled to the return of the Escrow Amount in accordance with Section 12.2(b) of the Purchase Agreement, and (iii) that Buyer has given a copy of such notice to Sellers, then Escrow Agent shall promptly give Sellers a copy of such written notice. At any time on or before the fifth business (5<sup>th</sup>) day after Sellers are given such notice by Escrow Agent, Sellers may contest Buyer's claim to the Escrow Amount by written notice delivered to Buyer and Escrow Agent setting forth the grounds for such dispute. Promptly after the expiration of the five (5) business day period from the date Sellers are given such notice by Escrow Agent, if Escrow Agent shall not have, during such five (5) business day period, received from Sellers written notice disputing Buyer's claim to the Escrow Amount, Escrow Agent shall pay the Escrow Amount to Buyer by wire transfer in accordance with written instructions from Buyer. If Sellers shall give notice disputing Buyer's claim to the Escrow Amount within such five (5) business day period, Escrow Agent shall retain the Escrow Amount until the dispute is resolved in accordance with Section 2.04 hereof. All notices to be given or permitted to be given under this Section shall be given as provided in Section 6.01 of this Agreement.

**2.04 Dispute.** In the event (a) of any dispute among any of the parties to this Agreement (a "Dispute"), including with respect to (i) the occurrence of a Damages Event, (ii) Sellers' disputed claim to the Escrow Deposit, (iii) Buyer's disputed claim to a return of the Escrow Amount, or (iv) the interpretation or administration of this Agreement; or (b) Escrow Agent shall be uncertain as to its duties or rights hereunder or shall receive instructions, claims or demands from any party hereto that, in its opinion, conflict with any of the provisions of this Agreement, Escrow Agent shall not comply with any such claims or demands from either Buyer or Sellers as long as such Dispute may continue, and in so refusing, Escrow Agent shall be entitled to refrain from taking any action, and it shall make no delivery or other disposition of the Escrow Deposit then held by it under this Agreement until it has received a final court order from a court of competent jurisdiction directing disposition of the Escrow Deposit, or until it has received appropriate written instructions signed by both Buyer, on the one hand, and Sellers, on the other hand. A judgment or order of a court under any provision of this Agreement shall not be deemed to be final until the time within which an appeal may be taken therefrom has expired and no appeal has been taken, or until the entry of a judgment or order from which no appeal may be taken. Notwithstanding anything to the contrary in this Agreement, the Escrow Agent may deposit the Escrow Deposit with the clerk of any court of competent jurisdiction upon commencement of an action in the nature of interpleader or in the course of any court proceedings, and, subject to Section 3.02, remit any Earnings then held by it to Buyer.

**2.05 Disbursement of Escrow Amount in Accordance with Joint Instructions.** Notwithstanding the provisions of Sections 2.01 through 2.04 above, the Escrow Agent, upon receipt of written instructions signed by both Buyer, on the one hand, and Sellers, on the other hand, regarding the disbursement of the Escrow Amount, shall disburse the Escrow Amount, or a portion thereof, in accordance with such instructions.

### **ARTICLE III ESCROW AGENT**

**3.01 Appointment and Duties.** Buyer and Sellers hereby appoint Escrow Agent to serve hereunder and Escrow Agent hereby accepts such appointment and agrees to perform all duties that are expressly set forth in this Agreement.

**3.02 Compensation.** Compensation will be paid to Escrow Agent by Buyer in accordance with the fee schedule set forth on Schedule A hereto. Notwithstanding the terms of Article II hereof, the Escrow Agent is hereby authorized by Buyer to deduct any unpaid compensation first from any Earnings and then from any cash being disbursed to Buyer.

**3.03 Indemnification.** Both Buyer, on the one hand, and Sellers, on the other hand, will, at their expense, jointly and severally, indemnify Escrow Agent, hold it harmless from any and all claims, regardless of nature, arising out of or because of this Agreement, and exonerate Escrow Agent from any liability in connection with this Agreement, except as such may arise because of Escrow Agent's gross negligence or willful misconduct in performing its specified duties as Escrow Agent. Nothing in this Section 3.03 shall be construed as a waiver of any claim that Buyer or Sellers may have against the other for contribution arising from their joint obligation to hold Escrow Agent harmless hereunder.

**3.04 Resignation.** Escrow Agent may resign at any time upon giving the other parties hereto thirty (30) days' prior written notice to that effect. In such event, the successor shall be such person, firm or corporation as shall be mutually selected by Buyer, on the one hand, and Sellers, on the other hand. It is understood and agreed that such resignation shall not be effective until such successor agrees to act hereunder; provided, however, if no successor is appointed and acting hereunder within thirty (30) days after such notice is given, Escrow Agent may pay and deliver the Escrow Deposit into a court of competent jurisdiction, and, subject to Section 3.02, pay any Earnings (less any unpaid compensation due the Escrow Agent) to Buyer.

**3.05 Account Opening Information.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. The parties hereto agree to promptly provide all such information reasonably requested by Escrow Agent as a condition to establishing and opening any account hereunder.

### **ARTICLE IV LIABILITIES OF THE ESCROW AGENT**

**4.01 Limitations.** Escrow Agent shall be liable only to accept, hold and disburse the Escrow Amount in accordance with the provisions of this Agreement and any amendments hereto, provided, however, that Escrow Agent shall not incur any liability with respect to (i) any action taken or omitted in good faith upon the advice of its counsel given with respect to any questions relating to its duties and responsibilities as Escrow Agent under this Agreement, so long as such action or inaction is consistent with the terms of this Agreement, or (ii) any action taken or omitted in reliance upon any instrument that Escrow Agent shall in good faith believe to be genuine (including the execution, the identity or authority of any person executing such instrument, its validity and effectiveness, and the truth and accuracy of any information contained therein), to have been signed by a proper person or persons, and to conform to the provisions of this Agreement. The Escrow

Agent shall be under no duty to inquire into or investigate the validity, accuracy or content of any such instrument. The Escrow Agent may execute any of its powers and perform any of its duties hereunder directly or through agents or attorneys (and shall be liable only for the careful selection of any such agent or attorney) and may consult with counsel, accountants and other skilled persons to be selected and retained by it. The Escrow Agent shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons.

**4.02 Collateral Agreements.** Escrow Agent shall not be bound in any way by any other contract or agreement between the other parties hereto, whether or not it has knowledge of any such contract or agreement or of its terms or conditions.

**4.03 Security Procedures.** In the event funds transfer instructions are given, whether in writing, by telecopier or otherwise, the Escrow Agent is authorized to seek confirmation of such instructions by telephone call-back to the person or persons designated on Schedule B hereto, and the Escrow Agent may rely upon the confirmation of anyone purporting to be the person or persons so designated. The persons and telephone numbers for call-backs may be changed only in a writing actually received and acknowledged by the Escrow Agent. If the Escrow Agent is unable to contact any of the authorized representatives identified in Schedule B, the Escrow Agent is hereby authorized to seek confirmation of such instructions by telephone call-back to any one or more of your executive officers ("Executive Officers"), which shall include the titles of Chairman, Manager, President, Vice President, Secretary or Treasurer, as the Escrow Agent may select. Such Executive Officer shall deliver to the Escrow Agent a fully executed Incumbency Certificate, and the Escrow Agent may rely upon the confirmation of anyone purporting to be any such officer. The Escrow Agent and the beneficiary's bank in any funds transfer may rely solely upon any account numbers or similar identifying numbers provided by Buyer or Sellers according to the terms of this Agreement to identify (i) the beneficiary, (ii) the beneficiary's bank, or (iii) an intermediary bank. Upon payment of any funds by the Escrow Agent pursuant to the terms of this Agreement, Escrow Agent may, without further inquiry, make any directed payment using any such identifying number delivered pursuant to the terms and provisions of this Agreement, even though the use of such identifying number provided by Buyer and/or Sellers pursuant to this Agreement may result in a person other than the beneficiary being paid, or the transfer of funds to a bank other than the beneficiary's bank or an intermediary bank designated. The parties to this Agreement acknowledge that these security procedures are commercially reasonable.

## **ARTICLE V TERMINATION**

This Agreement terminates (i) upon disbursement or release of the Escrow Amount by Escrow Agent in accordance with the terms of Article II hereof, (ii) by written consent signed by all parties, or (iii) upon payment of the Escrow Deposit into a court of competent jurisdiction in accordance with Section 3.04 hereof, with any Earnings, subject to Section 3.02, being remitted to Buyer. This Agreement shall not be otherwise terminated.

## **ARTICLE VI OTHER PROVISIONS**

**6.01 Notices.** All communications, notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be (i) in writing, (ii) sent by confirmed

facsimile (with receipt personally confirmed by telephone), delivered by personal delivery or sent by commercial delivery service or certified mail, return receipt requested, (iii) deemed to have been given on the date sent by facsimile if sent on a business day before 5:00 p.m. local time of the recipient, and if not then on the next business day immediately following, with receipt confirmed, the date of personal delivery or the date set forth in the records of the delivery service or on the return receipt, and (iv) addressed as follows, unless and until either of such parties notifies the other in accordance with this Section 6.01 of a change of address or change of facsimile number:

(a) If to Sellers:

c/o The Wicks Group of Companies, L.L.C.  
405 Park Avenue, Suite 702  
New York, New York 10022  
Attention: Matthew E. Gormly III and Sue Cho  
Telephone No.: 212.838.2100  
Facsimile No.: 212.223.2109

With a copy (which shall not constitute notice) to:

Wyrick Robbins Yates & Ponton LLP  
4101 Lake Boone Trail, Suite 300  
Raleigh, North Carolina 27607  
Attention: Stephen C. Brissette, Esq.  
Telephone No.: 919.781.4000  
Facsimile No.: 919.781.4865

(b) If to Buyer:

Hoak Media LLC  
500 Crescent Court, Suite 220  
Dallas, Texas 75201  
Attention: Eric D. Van den Branden  
Telephone No.: 972.960.4896  
Facsimile No.: 972.960.4899

With a copy (which shall not constitute notice) to:

Akin Gump Strauss Hauer & Feld LLP  
1333 New Hampshire Avenue NW  
Washington, DC 20036  
Attention: Tom W. Davidson, Esq.  
Telephone No.: 202.887.4011  
Facsimile No.: 202.887.4288

(c) If to Escrow Agent:

JPMorgan Chase Bank, N.A.  
4 New York Plaza, 21<sup>st</sup> Floor

New York, New York 10004  
Attention: Joe Morales  
Telephone No.: 212.623.5078  
Facsimile No.: 212.623.6168

**6.02 Benefit and Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Except in the case of Escrow Agent pursuant to Section 3.04, no party to this Agreement may, directly or indirectly, by merger, operation of law or otherwise, assign either this Agreement or any of its rights, interests or obligations under this Agreement without the prior written consent of the other party. No assignment consented to under this Agreement shall act as a novation and the assigning party shall not be released from, and shall remain fully liable for, all of its obligations and liabilities under this Agreement. Any assignment in violation of this Agreement shall be null and void *ab initio*. Notwithstanding the foregoing, if a successor Escrow Agent is appointed pursuant to Section 3.04 hereof upon written instructions by Sellers and Buyer, the Escrow Agent shall assign its rights, interests and obligations hereunder to such successor concurrently with its transfer of the Escrow Amount thereto.

**6.03 Entire Agreement; Amendment; Waiver.** This Agreement contains all the terms agreed upon among the parties hereto with respect to the subject matter hereof. This Agreement may be amended, supplemented or modified only by a written instrument that makes specific reference to this Agreement and that is signed by the party against which enforcement of any such amendment, supplement, or modification is sought. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, covenant or agreement herein may be waived by the party entitled to the benefits thereof only by a written instrument signed by the party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant or agreement shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

**6.04 Headings; Section.** The headings of the articles, sections and subsections of this Agreement are for ease of reference only and do not evidence the intentions of the parties. Any reference made herein to an "Article" or a "Section" shall, unless otherwise indicated, be a reference to an article or section of this Agreement.

**6.05 Governing Law.** This Agreement shall be governed by, and construed according to, the laws of the State of New York, without giving effect to the principles of conflicts of law of such state. Each party hereto irrevocably waives any objection on the grounds of venue, *forum non-conveniens* or any similar grounds and irrevocably consents to service of process by mail or in any other manner permitted by applicable law and consents to the jurisdiction of the courts located in the State of New York. The parties further hereby waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement; provided, however, that nothing set forth in this Section 6.05 shall be deemed to govern disputes between Buyer, on the one hand, and Sellers, on the other hand, arising under or with respect to the Purchase Agreement.

**6.06 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same instrument. This Agreement may be executed and delivered in counterpart signature pages executed and delivered via e-mail or facsimile transmission, and any such counterpart executed and

delivered via e-mail or facsimile transmission shall be deemed an original for all intents and purposes.

**6.07 Consequential Damages.** Anything in this Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable for special, indirect 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.

**6.08 Force Majeure.** Escrow Agent shall not be liable to any other party hereto for losses due to, or if it is unable to perform its obligations under the terms of this Agreement because of, acts of God, fire, floods, strikes, equipment or transmission failure, or other causes reasonably beyond its control.

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NEXT PAGE IS THE SIGNATURE PAGE]*



IN WITNESS WHEREOF, the parties hereto have duly executed this Escrow Agreement as of the date first above written.

**SELLERS:**

**NORTH DAKOTA TELEVISION, L.L.C.**

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

**SOUTH DAKOTA TELEVISION, L.L.C.**

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

**NORTH DAKOTA TELEVISION LICENSE SUB, L.L.C.**

By: North Dakota Television, L.L.C., its member-manager

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

**SOUTH DAKOTA TELEVISION LICENSE SUB, L.L.C.**

By: South Dakota Television, L.L.C., its member-manager

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

**BUYER:**

**HOAK MEDIA LLC**

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

**ESCROW AGENT:**

**JPMORGAN CHASE BANK, N.A.**

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