

## ***ESCROW AGREEMENT***

*AGREEMENT*, effective as of the \_\_\_\_\_ day of September, 2009 by and among:

*BUYER:* Jeffry O'Brien or Assignee  
*Address:* 2101 North Evergreen Street, #1046  
Chandler, AZ 85525

*SELLER:* David Cason  
*Address:* 2537 Len Rey Avenue  
El Centro, CA 92243

*ESCROW AGENT:* J. Dominic Monahan  
*Address:* Luvaas Cobb  
Post Office Box 10747  
Eugene, OR 97440-2747

*WHEREAS*, Buyer and Seller have entered into an Agreement of Purchase and Sale dated the 25<sup>th</sup> day of September, 2009 (hereinafter the "Purchase Agreement") with respect to FM Translator Station K255AQ, Strawberry, Arizona [Facility ID 144136]; and

*WHEREAS*, the parties wish to provide instructions for the disposition of funds deposited with Escrow Agent pursuant to said Purchase Agreement;

*NOW, THEREFORE*, the parties agree that:

### **1. FUNDS DEPOSITED WITH ESCROW AGENT**

Upon the execution of the Agreement to Purchase and this Escrow Agreement, Buyer is delivering or causing to be delivered to the Escrow Agent (hereinafter "Agent") the sum of Three Thousand Dollars (\$3,000.00) by wire transfer or check.

### **2. INVESTMENT OF ESCROW FUND**

Agent shall invest the escrow funds in federal insured savings accounts (or in such other investment as Buyer and Seller shall jointly instruct provided, however, that Agent shall not be required to invest in or hold any instrument in bearer form). Agent shall hold said escrow funds together with all interest accumulated thereon and proceeds therefrom in accordance with this Agreement.

### **3. DISPOSITION OF ESCROW FUNDS**

Agent shall distribute the escrow funds as follows:

**a.** In the event the purchase and sale closes in the manner contemplated in the Purchase Agreement, the escrow funds shall be paid over to the Seller at closing in accord with the Purchase Agreement. In such event, all accrued interest shall be paid over to Buyer.

b. In the event the purchase and sale does not close due to the material breach by or default of the Buyer under the terms of a letter of intent or the Purchase Agreement, then the escrow funds shall be paid over to Seller together with any interest accrued thereon.

c. In the event the purchase and sale does not close due to the material breach by or default of the Seller under the terms of the Purchase Agreement, then the escrow funds shall be paid over to Buyer together with all accrued interest.

d. In all other events if the Purchase Agreement is terminated or if the transactions or closing contemplated thereby are not consummated, the escrow funds shall be returned to the Buyer together with all accrued interest.

e. If any provision of this Paragraph with respect to the disposition of the escrow fund is in conflict with any provision of the Purchase Agreement with respect to such disposition, then such provision in the Purchase Agreement, as executed, shall control.

#### **4. CONTROVERSIES WITH RESPECT TO ESCROW FUND**

Agent shall dispose of the escrow fund upon the joint written instructions of the Seller and Buyer or their duly designated representatives. Agent shall have no duty or obligation to any party claiming escrow proceeds in the absence of joint written instructions directing Agent to pay said third party. If Agent shall not have received joint written instructions, Agent shall continue to hold the escrow funds and the income earned or accrued thereon for six (6) months from date of escrow, or until:

a. The receipt by Agent of the joint written instructions of the Seller and Buyer as to the disposition of the escrow funds; or

b. The receipt by Agent of a final order entered by a court of competent jurisdiction determining the disposition of the escrow funds and the income earned or accrued thereon; or

c. Agent shall have, at his option, filed an action or bill in interpleader, or similar action for such purpose, in a court of competent jurisdiction and paid the escrow funds and all income earned or accrued thereon into said court, in which event, Agent's duties, responsibilities and liabilities with respect to the escrow fund, the proceeds and this Agreement shall terminate.

#### **5. ESCROW AGENT**

a. Agent shall charge no fees for his services hereunder, but shall be reimbursed for all reasonable expenses, disbursements and advancements, if any, incurred or made by Agent in performance of his duties hereunder; any such expenses, disbursement and advances to be paid by Buyer and Seller equally.

b. Agent may resign and be discharged from his duties hereunder at any time by giving written notice of such resignation to Buyer and Seller specifying the date when such resignation shall take effect. Upon such notice, a successor escrow agent shall be appointed with the consent of both Buyer and Seller and the service of such successor escrow agent

shall be effective as of the date of resignation specified in the notice, which date shall not be less than thirty (30) days after the giving of such notice. If Buyer and Seller are unable to agree upon a successor escrow agent within thirty (30) days after such notice, Agent shall be authorized to appoint his successor. Agent shall continue to serve until his successor accepts the escrow by written notice to the parties hereto and Agent deposits the escrow funds with such successor escrow agent.

**c.** Agent undertakes to perform only such duties as are specifically set forth herein and may conclusively rely, and shall be protected in acting or refraining from acting, on any written notice, instrument or signature believed by it to be genuine and to have been signed or presented by the property party or parties duly authorized to do so.

**d.** Agent shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized hereby or within the rights and powers conferred upon it hereunder, nor for action taken or omitted by it in good faith, or in accordance with advice of counsel (which counsel may be of Agent's own choosing) and it shall not be liable for any mistake of fact or error of judgment or for any acts or omissions of any kind unless caused by his own misconduct or gross negligence.

**e.** Buyer and Seller each agree to indemnify Agent and hold it harmless against any and all liabilities incurred by it hereunder as a consequence of such party's action, and the Buyer and Seller agree jointly to indemnify Agent and hold it harmless against any and all other liabilities incurred by it arising out of this Agreement, except in the case of liabilities incurred by Agent resulting from his own misconduct or gross negligence.

**f.** Agent acts hereunder as a depository only, and is not responsible or liable in any manner for the sufficiency, correctness, genuineness or validity of any cash, document, bill, or security deposited with it, nor is it responsible in any manner for collection of bills, securities or documents, nor for any restrictions on the transferability or collection of the aforesaid bills, securities or documents, provided that Agent will notify all parties if funds are uncollectible. The parties hereto acknowledge that each has approved the form of escrow deposit if other than cash or check.

## **6. MISCELLANEOUS**

**a.** This Escrow Agreement shall be construed by and governed in accordance with the laws of the State of Arizona, applicable to agreements executed and wholly to be performed therein.

**b.** This Escrow Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and assigns.

**c.** This Escrow Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**d.** Paragraph headings contained in this Escrow Agreement have been inserted for reference purposes only, and shall not be construed as part of this Escrow Agreement.

e. All notices, requests, demands and other communications hereunder shall be in writing, shall be given simultaneously to all parties hereunder and shall be deemed to have been given if delivered or mailed (certified mail, postage pre-paid, return receipt requested) as follows:

*BUYER:* Jeffry O'Brien or Assignee  
*Address:* 2101 North Evergreen Street, #1046  
Chandler, AZ 85525

*SELLER:* David Cason  
*Address:* 2537 Len Rey Avenue  
El Centro, CA 92243

*ESCROW AGENT:* J. Dominic Monahan  
*Address:* Luvaas Cobb  
Post Office Box 10747  
Eugene, OR 97440-2747

or to such other addresses as any party may have furnished to the other in writing, in accord herewith.

**7. TERMINATION**

This Escrow Agreement shall automatically terminate upon the distribution of the escrow funds in accord with the term hereof.

*IN WITNESS WHEREOF*, the parties have caused their hands, or those of their duly authorized officers, and seals to be affixed as of the date first above written.

*BUYER*

*SELLER*

DAVID CASON

\_\_\_\_\_  
Jeffry O'Brien or Assignee

\_\_\_\_\_  
David Cason, Individual

*ESCROW AGENT*

LUVAAS COBB

\_\_\_\_\_  
J. Dominic Monahan, Partner