

## **ESCROW AGREEMENT**

This Escrow Agreement ("Agreement") is made and entered into as of January 29, 2016, by and among **EDUCATIONAL MEDIA FOUNDATION**, a California 501(c)(3) corporation ("Seller"), and **ALPHA MEDIA LICENSEE, LLC**, a Delaware limited liability company ("Buyer") and **WASHINGTONFIRST BANK, N.A.** located in Washington, D.C. ("Escrow Agent").

### *WITNESSETH:*

**WHEREAS**, pursuant to an Asset Purchase Agreement dated January 29, 2016 between Buyer and Seller (the "Purchase Agreement"), Buyer will acquire from Seller certain assets used in the operation of FM translator station W265CZ, Meridian, Mississippi) (the "Station");

**WHEREAS**, pursuant the Purchase Agreement, Buyer has agreed to deposit the sum of Thirty Five Thousand Dollars (\$35,000.00) into escrow to be held by Escrow Agent pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the premises and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. Appointment. On the terms and conditions set forth herein, Escrow Agent shall act as escrow agent and, as such, receive, administer and dispose of the sum of Thirty Five Thousand Dollars (\$35,000) deposited simultaneously with the execution of this Agreement by Buyer with Escrow Agent as set forth herein (the "Escrow Deposit"). The Escrow Agent shall invest the Escrow Deposit in an interest bearing checking account, savings account, money market fund or treasury securities, as directed by Buyer from time to time.

2. Rights, Duties and Immunities of Escrow Agent.

(a) Acceptance by Escrow Agent of its duties under this Agreement is subject to the following terms and conditions, which all parties to this Agreement hereby agree shall govern and control the rights, duties and immunities of Escrow Agent:

(i) Escrow Agent undertakes to perform such duties and only such duties as are expressly set forth herein, and no implied agreements or obligations shall be read into this Agreement against Escrow Agent;

(ii) Escrow Agent shall not be responsible in any manner whatsoever for any failure or inability of Buyer, or of anyone else, to deliver moneys to Escrow Agent or otherwise to honor any of the provisions of this Agreement, the Purchase Agreement or any other agreement;

(iii) Seller and Buyer jointly shall, within ten (10) days following demand, reimburse and indemnify Escrow Agent for, and hold it harmless from and against, any loss, liability or expense, including but not limited to reasonable counsel fees, arising out of or in connection with its acceptance of, or the performance of its duties and obligations under, this Agreement, except for losses, liabilities and expenses caused by the bad faith, willful misconduct or gross negligence of Escrow Agent. Escrow Agent shall in no event be liable in connection with its investment or reinvestment of any amount held by it hereunder in good faith in accordance with the terms hereof, including, without limitation, any liability for any delays not resulting from its gross negligence or willful misconduct or any loss of interest incident to any such delays;

(iv) Escrow Agent shall be fully protected in acting on and relying upon any written notice, direction, request, waiver, consent, receipt or other paper or document which Escrow Agent in good faith believes to have been signed or presented by the proper party or parties;

(v) Escrow Agent shall not be liable for any error of judgment, or for any act done or step taken or omitted by it in good faith or for any mistake of fact or law, or for anything that it may do or refrain from doing in connection herewith, except its own bad faith, willful misconduct or gross negligence;

(vi) Escrow Agent shall receive for its services as escrow agent hereunder, the sum of Two Hundred Dollars (\$200), which cost shall be borne by Buyer.

(vii) Escrow Agent makes no representation as to the validity, value, genuineness, or collectability of any security, document or instrument held by or delivered to it; and

(viii) no provisions of this Agreement shall require Escrow Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(b) Subject to the provisions of Section 3 hereof, if a controversy arises between one or more of the parties hereto as to whether or not or to whom Escrow Agent shall deliver the Escrow Deposit or as to any other matter arising out of or relating to the Escrow Deposit or this Agreement, Escrow Agent shall not be required to determine the same and shall not make any delivery of the Escrow Deposit but shall retain it until the rights of the parties to the dispute shall have finally been determined by written agreement among the parties in dispute or by final order of a court of competent jurisdiction; provided, however, that the time for appeal of any such final order has expired without an appeal having been made. Escrow Agent shall deliver the Escrow Deposit within two (2) business days after Escrow Agent has received written notice of any such agreement or final order (accompanied by an affidavit that the time for appeal

has expired without an appeal having been made). Escrow Agent shall be entitled to assume that no such controversy has arisen unless it has received a written notice that such a controversy has arisen which refers specifically to this Agreement and identifies by name and address the adverse claimants in the controversy; provided, however, that Escrow Agent shall not be bound by any such notice unless it is received before Escrow Agent delivers the Escrow Deposit or takes any action that, but for the notice referred to in this sentence, is permitted hereunder. If a controversy of the type referred to in this paragraph arises, Escrow Agent may, in its sole discretion (but shall not be obligated to), commence interpleader or similar actions or proceedings for determination of the controversy.

3. Release of Escrow Deposit. Escrow Agent shall hold the Escrow Deposit until it delivers such Escrow Deposit as follows:

(a) If Escrow Agent receives a written notice executed by Seller and Buyer stating that the Closing contemplated by the Purchase Agreement has occurred on a specified date, Escrow Agent shall deliver the Escrow Deposit to Seller and deliver all interest and earnings thereon to Buyer on such date, provided that Escrow Agent shall have received at least two (2) business days prior written notice.

(b) If Escrow Agent receives a written notice from Buyer stating that Buyer is entitled to the Escrow Deposit, Escrow Agent shall deliver or mail a copy thereof to Seller and, unless Escrow Agent has received a written notice of objection from Seller within ten (10) business days after the effective date of such delivery or mailing, Escrow Agent shall deliver the Escrow Deposit together with any earnings thereon to Buyer. If Escrow Agent so receives a written notice of objection from Seller, a controversy shall be deemed to have occurred for purposes of Section 2(b) hereof.

(c) If Escrow Agent receives a written notice from Seller stating that Seller is entitled to the Escrow Deposit, Escrow Agent shall deliver or mail a copy thereof to Buyer and, unless Escrow Agent has received a written notice of objection from Buyer within ten (10) business days after the effective date of such delivery or mailing, Escrow Agent shall deliver the Escrow Deposit, together with any earnings thereon, to Seller. If Escrow Agent so receives a written notice of objection from Buyer, a controversy shall be deemed to have occurred for purposes of Section 2(b) hereof.

(d) Escrow Agent shall, in addition, disburse the Escrow Deposit and earnings thereon in accordance with any joint written instructions received by Escrow Agent executed by Buyer and Seller, which joint instructions shall be deemed to supersede the above provisions of this Section 3.

4. Successor Escrow Agent.

(a) Escrow Agent (and any successor escrow agent) may at any time resign by delivering five (5) business days advance written notice to Seller and Buyer. Escrow Agent shall

deliver the Escrow Deposit to any successor escrow agent jointly designated in writing by Buyer and Seller, whereupon Escrow Agent shall be discharged of and from any and all further obligations arising in connection with this Agreement. The resignation of Escrow Agent shall take effect on the earlier of the appointment of a successor escrow agent or the date which is five (5) business days after the date of delivery of Escrow Agent's written notice of resignation to the other parties hereto. In the event that a successor Escrow Agent has not been appointed at the expiration of such five (5) business day period, Escrow Agent's sole responsibility hereunder shall be the safekeeping of the Escrow Deposit and to deliver such Escrow Deposit as may be specified in a written agreement signed by all the other parties to this Agreement or as any court of competent jurisdiction may order.

(b) If Escrow Agent receives a written notice from Seller and Buyer stating that they have selected another escrow agent, Escrow Agent shall deliver the Escrow Deposit to the successor escrow agent named in the aforesaid notice within five (5) days.

5. Miscellaneous.

(a) This Agreement may be executed in counterpart originals, which collectively shall have the same legal effect as if all signatures had appeared on the same physical document. This Agreement may be executed and exchanged by facsimile or electronic transmission with the same legal effect as if the signatures had appeared in original handwriting on the same physical document.

(b) This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. No persons other than the parties hereto shall have any rights under or by reason of this Agreement.

(c) All notices, elections and other communications permitted or required under this Agreement shall be in writing and shall be sent for next business day delivery by USPS Express Mail, Federal Express or similar nationally-recognized overnight courier service with all charges prepaid, and shall be deemed to have been duly delivered and received on the next business day after being sent, addressed as follows (or at such other address for a party as shall be specified by like notice):

If to **Buyer**, then to:

c/o Alpha Media, LLC  
1211 SW 5<sup>th</sup> Avenue  
Suite 750  
Portland, OR 97204  
Attn: Donna Heffner, Chief Financial  
Officer and Michael Everhart, Director of  
Engineering

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

Wiley Rein LLP  
1776 K Street NW

Washington, DC 20006  
Attn: Greg Masters

If to **Seller**, then to:

Educational Media Foundation  
5700 West Oaks Blvd.  
Rocklin, CA 95765  
Attn: Mike Novak, President  
(916) 251 -1600  
Email: [mnovak@emfbroadcasting.com](mailto:mnovak@emfbroadcasting.com)

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

Wilkinson Barker Knauer LLP  
1800 M Street NW, Suite 800N  
Washington, DC 20036  
Attention: David Oxenford  
(202) 783-4141  
E:Mail: [doxenford@wbklaw.com](mailto:doxenford@wbklaw.com)

If to **Escrow Agent**, then to:

WashingtonFirst Bank  
NMLS ID #1063301  
1146 19th Street, NW  
Washington, DC 20036  
Attention: Anna Massey  
E:Mail: [amassey@wfbi.com](mailto:amassey@wfbi.com)

Notwithstanding the foregoing, the parties agree that the at the closing of the transaction, Buyer and Seller may send the Escrow Agent a PDF copy of joint escrow release instructions signed both parties and such notification shall be deemed properly given if Escrow Agent replies confirming receipt of same.

(d) The headings contained in this Agreement are inserted for reference purposes only and shall not affect the meaning of interpretation of this Agreement.

(e) Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction.

(f) No amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed by each of the parties hereto, and any waiver shall be effective only in the instance and for the purpose for which given.

(g) This Agreement shall be governed by and construed in accordance with the laws of the District of Columbia, without regard to principles of conflicts of law.

(h) This Agreement embodies the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants, or undertakings, other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.

[SIGNATURE PAGE FOLLOWS]


SIGNATURE PAGE TO ESCROW AGREEMENT

**WITNESS WHEREOF**, the parties hereto have executed this Escrow Agreement as of the day and year first above written.

**Seller:**

**EDUCATIONAL MEDIA FOUNDATION**

By:   
Name: N. David Atkinson  
Title: Vice President of Financial Analysis and Treasury

By:   
Name: Joseph C. Miller  
Title: Vice President of Signal Development

**Buyer:**

**ALPHA MEDIA LICENSEE, LLC**

By: \_\_\_\_\_  
Name: Bob Proffitt  
Title: CEO

**Escrow Agent:**

**WASHINGTONFIRST BANK**

By: \_\_\_\_\_  
Name: Michael M. Amin  
Title: Senior Vice President

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By: \_\_\_\_\_

Name: Bob Proffitt

Title: CEO

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**WASHINGTONFIRST BANK**

By: \_\_\_\_\_

Name: Michael M. Amin

Title: Senior Vice President



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By: \_\_\_\_\_

Name: Joseph C. Miller

Title: Vice President of Signal Development

**Buyer:**

**ALPHA MEDIA LICENSEE, LLC**

By: \_\_\_\_\_

Name: Bob Proffitt

Title: CEO

**Escrow Agent:**

**WASHINGTONFIRST BANK**

By: \_\_\_\_\_

Name: Michael M. Amin

Title: Senior Vice President