

## ESCROW AGREEMENT

**THIS ESCROW AGREEMENT** (the "Agreement") is made and entered into as of the day of February, 2003, by and among Nassau Broadcasting Holdings, Inc., a Delaware corporation, as "Seller", with a business address at 619 Alexander Road, Third Floor, Princeton, NJ 08540, and Pamal Broadcasting Ltd., a New York corporation with a business address at 6 Johnson Road, Latham, NY 12110 ("Pamal") and 6 Johnson Road Licenses, Inc., a New York corporation and wholly owned subsidiary of Pamal, with offices at 6 Johnson Road, Latham, New York 12210 ("6 Johnson Road") (Pamal and 6 Johnson Road collectively "Purchaser") and Robert L. Adams, Esq. ("Escrow Agent").

### WITNESSETH:

WHEREAS, Seller and Purchaser are parties to an Asset Purchase Agreement (the "Purchase Agreement") of even date herewith pursuant to which Purchaser is to deposit funds with the Escrow Agent in connection with the purchase and sale of radio station WYNY-FM, licensed to Briarcliff Manor, New York.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Seller, Purchaser and Escrow Agent hereby agree as follows:

Section 1. Escrow Account and Deposit. The Escrow Agent has established, or simultaneously with the execution hereof will establish, an account (the "Escrow Account") into which Purchaser will deposit Eighty Hundred Fifty Thousand (\$850,000.00) (the "Escrow Principal"). Upon receipt thereof, the Escrow Agent shall provide Purchaser and Seller confirmation thereof, and shall hold and disburse such deposit as set forth in this Agreement. Such deposit shall be invested in an interest bearing account, including, but not limited to a money market fund operated and administered by the Escrow Agent. For tax purposes, interest and other income earned on the Deposit shall be reported as income of Purchaser, the Escrow Agent shall file a Form 1099 consistent with such treatment, and Purchaser shall provide Escrow Agent with executed Forms W-8 and W-9, as requested by Escrow Agent.

Section 2. Release of Deposit by Escrow Agent. The Escrow Agent shall promptly release all or a portion of the Deposit to Purchaser or Seller, as the case may be, upon the first to occur of the following circumstances:

(a) if the Escrow Agent receives written instructions from Seller stating that Seller is entitled to the Deposit pursuant to the Purchase Agreement and that Seller has delivered to Purchaser a copy of such notice, and directing the Escrow Agent to disburse the Deposit, then the Escrow Agent shall disburse the Deposit in accordance with such instructions;

(b) if the Escrow Agent receives joint written instructions from Seller and Purchaser directing the Escrow Agent to disburse the Deposit, then the Escrow Agent shall disburse the Deposit in accordance with such instructions; or

(c) if the Escrow Agent receives a final order of a court of competent jurisdiction authorizing the Escrow Agent to disburse the Deposit, then the Escrow Agent shall disburse the Deposit in accordance with such order.

Section 3. Reliance by Escrow Agent. The Escrow Agent shall be entitled to rely

upon and act in accordance with any of: (a) written notice of Seller pursuant to Section 2(a) hereof, (b) the joint written instructions of Seller and Purchaser, and (c) a final order of a court of competent jurisdiction authorizing the Escrow Agent to release the Deposit, or any portion thereof, to Purchaser or Seller.

Section 4. Conflicting Demands. If conflicting demands are made upon the Escrow Agent, the Escrow Agent shall not be required to resolve such controversy or take any action, but may await resolution of the controversy by joint instructions from Seller and Purchaser or by appropriate legal proceedings; provided, however, that, notwithstanding the foregoing, if the Escrow Agent receives written notice of Seller pursuant to Section 2(a), then Escrow Agent shall disburse the Deposit in accordance with the instructions set forth therein regardless of any conflicting demand, and in doing so Escrow Agent shall not become liable in any way and shall be indemnified as provided in Section 5.

Section 4.5 Waiver. All parties acknowledge that the Escrow Agent is acting as Escrow Agent as an accommodation to both Purchaser and Seller and that Robert L. Adams, Esq. or members of his firm represent the Purchaser. By execution of this Agreement, both Purchaser and Seller acknowledge the potential for conflict but specifically waive any claim or right to make a claim that the Escrow Agent or any member of Robert L. Adams, Esq. is or would be prohibited from representation of Purchaser in any transaction with Seller by virtue of the fact (i) that the law firm has served as an Escrow Agent, or (ii) that such Escrow Agent has learned facts about the Parties in its capacity as Escrow Agent, or (iii) that the Escrow Agent, by virtue of its role as fiduciary for Purchaser and Seller with respect only to the Escrowed Funds, could therefore be held to have a conflict of interest. Seller and Purchaser agree that information conveyed to the Escrow Agent during the course and scope of Escrow Agent's duties, as Escrow Agent only, shall not be considered confidential by Seller or Purchaser. Finally, Purchaser and Seller agree that in the event that there exists an actual controversy between Purchaser and Seller, the Escrow Agent can interplead the Escrowed Funds, resign as Escrow Agent and represent Purchaser with respect to the subject matter of the controversy.

Section 5. Indemnification; Fees of Escrow Agent. Purchaser and Seller shall jointly and severally pay, and hold the Escrow Agent harmless against, all costs, charges, damages and attorneys' fees which the Escrow Agent in good faith may incur or suffer in connection with or arising out of this Agreement.

Section 6. Rights and Duties of Escrow Agent.

(a) No assignment of the interest of any of the parties hereto shall be binding upon the Escrow Agent unless and until written evidence of such assignment in a form satisfactory to the Escrow Agent shall be filed with and accepted by the Escrow Agent.

(b) The Escrow Agent may rely or act upon orders or directions signed by the proper parties, or bearing a signature or signatures reasonably believed by the Escrow Agent to be genuine.

(c) The Escrow Agent shall have no duties other than those expressly imposed on it herein and shall not be liable for any act or omission except for its own gross negligence or willful misconduct.

(d) In the event that the Deposit or any proceeds thereof shall be attached, garnished, or levied upon by an order of any court, or the delivery thereof shall be stayed or enjoined by an order of court, or any order, judgment or decree shall be made

or entered by any court affecting the property deposited under this Agreement, or any part thereof, the Escrow Agent is hereby expressly authorized in its sole discretion to obey and comply with all writs, orders or decrees so entered or issued, which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction, and in case the Escrow Agent obeys or complies with any such writ, order or decree it shall not be liable to any of the parties hereto or to any other person, firm or corporation, by reason of such compliance notwithstanding that such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

(e) The Escrow Agent may resign by giving sixty (60) days written notice of resignation, specifying the effective date thereof. Within thirty (30) days after receiving the aforesaid notice, the Seller and Purchaser agree to appoint a successor escrow agent to which the Escrow Agent shall transfer the Deposit or any proceeds thereof then held in escrow under this Agreement. If a successor escrow agent has not been appointed and/or has not accepted such appointment by the end of the 30-day period, the Escrow Agent may at its sole option: (i) apply to a court of competent jurisdiction for the appointment of a successor escrow agent, and the costs, expenses and reasonable attorneys' fees which are incurred in connection with such a proceeding shall be paid one-half by the Seller and one-half by Purchaser, or (ii) continue to hold the Deposit until it receives an order from a court of competent jurisdiction or joint written instructions of Seller and Purchaser directing the Escrow Agent to release the Deposit.

Section 7. Disputes. Except as provided in Section 4, in the event of any disagreement between any of the parties resulting in conflicting or adverse claims or demands being made to the Deposit, the Escrow Agent shall be entitled, at its sole option, to refuse to comply with or recognize any such claims or demands as long as the disagreement shall continue, and in doing so, Escrow Agent shall not become liable in any way to any person for failure or refusal to comply with such conflicting or adverse claims or demands, and its duties hereunder with regard to such disputed Deposit shall be suspended until the rights of the claimants have been fully adjudicated or the differences adjusted between the parties and the Escrow Agent shall have been notified thereof in writing signed by all parties interested. In the event the differences between the parties with regard to the disputed Deposit have not been adjusted, and the Escrow Agent has been so notified, within ten (10) days following receipt of notice by Escrow Agent of conflicting or adverse claims or demands, Escrow Agent may, but shall not be obligated to, interplead the disputed Deposit in court, and thereupon Escrow Agent shall be fully and completely discharged of its duties as Escrow Agent with regard to the Deposit. The parties shall be jointly and severally liable to Escrow Agent for all fees and expenses, including legal fees, incurred by Escrow Agent in exercising its rights.

Section 8. Notices. Any notice or other communication required or permitted hereunder shall be deemed to have been sufficiently given when delivered personally, by facsimile, recognized air courier, or registered or certified mail, return receipt requested, addressed as follows:

if to Seller:

Louis F. Mercanti, Jr.  
619 Alexander Road, Third Floor  
Princeton, NJ 08540  
Facsimile (609) 452-6017  
Email: lmercanti@nassaubroadcasting.com

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

Timothy R. Smith, Esq.  
619 Alexander Road, Third Floor  
Princeton, NJ 08540  
Facsimile: (609) 452-6017  
Email: [tsmith@nassaubroadcasting.com](mailto:tsmith@nassaubroadcasting.com)

If to Purchaser:

James J. Morrell  
Pamal Broadcasting Ltd.  
6 Johnson Road  
Latham, NY 12110  
Facsimile: (518) 786-6733  
Email: [jmorrell@albanyradio.net](mailto:jmorrell@albanyradio.net)

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

Robert L. Adams, Esq.  
39 North Pearl Street  
Albany, New York 12207  
Facsimile (518) 463-3440  
Email: [robadamsatty@att.net](mailto:robadamsatty@att.net)

if to Escrow Agent:

Adams Dayter & Sheehan, LLP  
39 North Pearl Street  
Albany, NY 12207  
Attention: Robert L. Adams  
Facsimile: (518) 463-3440

or to such other address as may be specified by any party in a written notice to the other parties.

Section 9. Governing Law. This Agreement shall be construed under the laws of the New York.

Section 10. Waiver. This Agreement may be amended or modified, and any term may be waived, only if such amendment, modification or waiver is in writing and signed by all parties.

Section 11. No Third Party Beneficiaries. This Agreement is a personal one, the duty of the Escrow Agent being only to the parties hereto, their successors or assigns, and to no other person whatsoever.

Section 12. Counterparts. This Agreement may be executed in separate counterparts and by facsimile signatures with the same force and effect as a single fully executed original.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective duly authorized officers all as of the day and year first above written.

SELLER:

NASSAU BROADCASTING HOLDINGS, INC.

By: 

Name:

Title:

PURCHASER:

PAMAL BROADCASTING, LTD.

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

Name: John VanDenburgh

Title: Secretary/Treasurer

Purchaser:

6 JOHNSON ROAD LICENSES, INC.,

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

Name: John VanDenburgh

Title: Secretary/Treasurer

ESCROW AGENT:

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

Name: Robert L. Adams

Title: Partner

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IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective duly authorized officers all as of the day and year first above written.

SELLER:

NASSAU BROADCASTING HOLDINGS, INC.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

PURCHASER:

PAMAL BROADCASTING, LTD.

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

Name: John VanDenburgh

Title: Secretary/Treasurer

Purchaser:

6 JOHNSON ROAD LICENSES, INC.,

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

Name: John VanDenburgh

Title: Secretary/Treasurer

ESCROW AGENT:

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

Name: Robert L. Adams

Title: Partner