

## **ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (this "Agreement") is made and entered into as of November 7, 2003, by and among Von Broadcasting, Inc. ("Seller"), Gary York ("Buyer") and David Tillotson, Esq. (the "Escrow Agent").

### **WITNESSETH**

WHEREAS, Seller and Buyer have entered into an Asset Purchase Agreement (the "Purchase Agreement"), of even date herewith, for the sale of the radio station identified therein (the "Station"). Capitalized terms used but not defined herein shall have the meanings assigned to them in the Purchase Agreement.

WHEREAS, Pursuant to the Purchase Agreement, Buyer must deposit in escrow the sum of One Hundred Thousand Dollars (\$100,000.00) (the "Escrow Deposit").

WHEREAS, Escrow Agent has agreed to hold, invest and disburse the Escrow Deposit, together with any interest or other earnings thereon, pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties intending to be legally bound, agree as follows:

1. **APPOINTMENT OF ESCROW AGENT.** Seller and Buyer each hereby appoint David Tillotson, Esq. as Escrow Agent to receive, hold, administer, and deliver the Escrow Deposit together with any interest or other earnings thereon in accordance with this Agreement, and Escrow Agent hereby accepts its appointment, all subject to and upon the terms and conditions set forth herein.

2. **ESCROW DEPOSIT.** Simultaneously with this Agreement, Buyer will deposit with the Escrow Agent the sum of One Hundred Thousand Dollars (\$100,000.00). The Escrow Agent shall notify the parties hereto of the receipt of the Escrow Deposit and provide the parties with written proof of the same. The Escrow Deposit and all accrued interest shall be held and released by the Escrow Agent in accordance with the terms of this Agreement.

3. **INVESTMENT OF ESCROW FUNDS.** After receipt of the Escrow Deposit and pending the disbursement of the Escrow Deposit pursuant to this Agreement, Escrow Agent shall invest the Escrow Deposit in a Certificate of Deposit at Bank of America and Buyer shall provide Escrow Agent with Buyer's taxpayer identification number for use in opening the Certificate of Deposit. Any income or interest realized from the investments made by Escrow Agent pursuant hereto shall, solely for purposes of this Section, be deemed to form part of the Escrow Deposit and shall be reinvested by Escrow Agent until all of the Escrow Deposit is fully disbursed.

4. **DISBURSEMENT OF ESCROW.** Escrow Agent shall disburse the Escrow Deposit as follows:

(a) Joint Notice. Upon receipt by Escrow Agent of a joint notice from Seller and Buyer directing delivery of the Escrow Deposit, Escrow Agent shall immediately pay, without deduction, set-off or counterclaim, the principal of the Escrow Deposit to Seller and all interest and other earnings thereon to Buyer, or as otherwise specified in the joint notice.

(b) Pursuant to A Determination by the Dispute Panel or Court Order. Upon receipt of by Escrow Agent of a certified copy of a final order entered by the Dispute Panel or a court of competent jurisdiction determining the disposition of the Escrow Deposit and the income earned or accrued thereon, as directed by such determination or order;

(c) Partial Release of Escrow Deposit. If the Escrow Agent disburses less than all of the Escrow Deposit pursuant to any joint notice or court order in accordance with this Agreement, that portion of the Escrow Deposit not disbursed, together with any interest then held by the Escrow Agent, shall continue to be held in escrow by the Escrow Agent subject to the terms of this Agreement.

5. **ESCROW AGENT'S DUTIES.** The Escrow Agent will be under no duty or obligation to give any notice, or to do or to omit the doing of any action with respect to the Escrow Deposit, except to give notice, make disbursements, and deposit the Escrow Deposit in accordance with the terms of this Agreement. The Escrow Agent will not be liable for any error in judgment or any act or steps taken or permitted to be taken in good faith, or for any mistake of law or fact, or for anything it may do or refrain from doing in connection with this Agreement, except for its own willful misconduct or gross negligence (including a disbursement made in violation of this Agreement). The Escrow Agent will not be required in any way to resolve any controversy regarding the Escrow Deposit or take any action concerning such controversy. The Escrow Agent will not be required in any way to determine the validity or sufficiency, whether in form or substance, of any instrument, document, certificate, statement or notice referred to in this Agreement or contemplated by this Agreement, or the identity or authority of the persons executing it. The Escrow Agent shall be entitled to rely upon any order, judgment, certification, demand, notice, instrument, or other writing delivered to it hereunder without being required to determine the authenticity or the correctness of any fact stated therein or the propriety or validity of the service thereof. The Escrow Agent may act in reliance upon any instrument or signature believed by it in good faith to be genuine and may assume that any person purporting to give any notice or receipt or advice or make any statement or execute any document in connection with the provisions hereof has been duly authorized to do so.

6. **RIGHT OF INTERPLEADER.** If any controversy arises between the Buyer and Seller with respect to this Agreement or the Escrow Deposit, or the Escrow

Agent is in doubt as to what action to take, the Escrow Agent will (a) withhold delivery of the Escrow Deposit until the controversy is resolved by the Disputes Panel provided for in Section 16 of the Purchase Agreement or the conflicting demands are withdrawn or the doubt is resolved, or (b) institute a bill of interpleader in a court in the District of Columbia to determine the rights of the parties (in which case the Escrow Agent will withhold delivery of the Escrow Deposit until paid into the court in accordance with the laws of the District of Columbia). If a bill of interpleader is instituted, or if the Escrow Agent is threatened with litigation or becomes involved in litigation in any manner whatsoever on account of this Agreement or the Escrow Deposit, as between themselves and the Escrow Agent, the Buyer and Seller will pay the Escrow Agent its reasonable attorneys' fees and any other disbursements, losses, reasonable expenses, costs and damages of the Escrow Agent in connection with or resulting from such threatened or actual litigation. All costs and expenses of such controversy will be charged to the non-prevailing party in such controversy.

7. **INDEMNITY.** The Buyer and Seller, jointly, will indemnify the Escrow Agent against and hold the Escrow Agent harmless from any losses, costs, damages, expenses, claims and attorneys' fees suffered or incurred by the Escrow Agent as a result of, in connection with or arising from or out of the acts or omissions of the Escrow Agent in performance of or pursuant to this Agreement, except such acts or omissions as may result from the Escrow Agent's willful misconduct or gross negligence.

8. **DISCHARGE BY DELIVERY.** After the Escrow Agent has delivered the Escrow Deposit and any interest earned thereon pursuant to the terms of this Escrow Agreement, the Escrow Agent shall have discharged all of its obligations hereunder and neither Seller nor Buyer shall thereafter have any claim against the Escrow Agent on account of this Agreement.

9. **SUCCESSOR ESCROW AGENT(S).**

(a) The Escrow Agent (and any successor escrow agent) may at any time resign as such by delivering a written notice of resignation to the other parties hereto and by delivering the Escrow Deposit and all interest earned thereon to any successor escrow agent jointly designated in writing by Seller and Buyer or, if such successor is not so designated, to any court of competent jurisdiction, whereupon the Escrow Agent shall be discharged of and from any and all further obligations arising in connection with this Agreement. The resignation of the Escrow Agent shall take effect upon the earlier of the appointment of a successor escrow agent or thirty (30) days after the date of delivery of the 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 thirty (30) day period, the Escrow Agent's sole responsibility hereunder shall be the safekeeping of the Escrow Deposit, and interest, if any, and to pay such amount as may be specified in a written agreement signed by Seller and Buyer or as any court of competent jurisdiction may order.

(b) If, at any time, the Escrow Agent receives a written notice signed by Seller and Buyer stating that they have selected another escrow agent, the Escrow Agent shall deliver the Escrow Deposit and all interest earned thereon to such successor escrow agent within 10 business days of receiving the aforesaid notice.

10. **TERMINATION.** This Agreement shall terminate upon the disbursement of the entire Escrow Deposit and any interest earned thereon by the Escrow Agent in accordance with the terms of this Agreement, including the deposit of the Escrow Deposit with the clerk of any court of competent jurisdiction in accordance with Paragraphs 6 or 9, and the delivery of interest or earnings thereon to Buyer in accordance with Paragraph 4(e) or by written consent signed by all parties.

11. **MISCELLANEOUS.**

11.1. Binding Effect. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the respective successors and permitted assigns of the parties hereto.

11.2. Entire Agreement; Amendments. This Agreement, as read in conjunction with the Purchase Agreement, contains the entire understanding of the parties with respect to the subject matter hereof, and there are no other agreements, representations, warranties or understandings, oral or written, between the parties with respect to the subject matter hereof. No alteration, amendment, modification or change of this Agreement shall be valid unless by like written instrument, except as provided in Paragraph 9.

11.3. Notices. Any notices required by this Agreement shall be in writing and shall be deemed to have been duly delivered and received on the date of personal delivery, or on the first business day after delivery to a nationally recognized overnight delivery service for next morning delivery, or upon confirmation by telecopy and shall be addressed to the following addresses, or to such other address as any party may request by notifying the other parties hereto:

If to Seller:

Von Broadcasting, Inc.  
733 Algonquin Drive  
Boone, NC 28607  
Fax: 828-262-1754  
Attn: Dan Hill, President

with a copy (which will not be considered notice) to:

David Tillotson, Esq.  
4606 Charleston Terrace, NW  
Washington, DC 20007-1911

Fax: 202-965-2018

If to Buyer:

Gary York  
P.O. Box 48  
Mount Airy, NC 27030  
Fax: 336-789-7067

With copies that shall not constitute notice to:

Thomas M. Faw, Esq.  
Faw, Folger & Johnson  
BB&T Building, 541 N. Main Street  
P.O. Drawer 512  
Mount Airy, NC 27030  
Fax: 336-786-2620

If to Escrow Agent:

David Tillotson, Esq.  
4606 Charleston Terrace, NW  
Washington, DC 20007-1911  
Fax: 202-965-2018

11.4. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with the laws of the District of Columbia, without regard to its rules for conflict of laws. All Escrow Agent's rights under this Agreement are cumulative of any other rights it may have by law or otherwise.

11.5. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

11.6. Severability. Any provision of this Agreement that is determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions hereof, and its prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable the same provision in any other jurisdiction. It is expressly understood, however, that the parties hereto intend every provision of this Agreement to be valid and enforceable and hereby knowingly waive all rights to object to any provision of this Agreement.

11.7 Headings. The headings of the sections and subsections contained herein are for ease of reference only and shall not in any way affect the meaning and interpretation of this Agreement.

11.8 Fees. Other than as set forth in Section 6 above, Escrow Agent shall be compensated for his services hereunder at his normal hourly rate for performing legal services and shall be reimbursed for his expenses in connection with such services and Seller shall be solely responsible for Escrow Agent's fees and expenses.

11.9 Obligations to Parties. The parties acknowledge that the Escrow Agent is legal counsel for the Seller and agree to waive any potential conflict between its role as such legal counsel and its duties as Escrow Agent hereunder, provided that in all matters relating to the duties of the Escrow Agent under this Escrow Agreement, the duty of the Escrow Agent to fulfill its obligations under this Escrow Agreement shall prevail over any conflicting duty it may owe to Seller.

**[Signatures appear on next page]**

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the parties hereto as the date first above written.

**SELLER:**

**VON BROADCASTING, INC.**

\_\_\_\_\_  
By: Dan Hill, President

**BUYER:**

\_\_\_\_\_  
Gary York

**ESCROW AGENT:**

  
\_\_\_\_\_  
David Tillotson