

# **ASSET PURCHASE AGREEMENT**

*Entered into Between*

***MAGNUM BROADCASTING, INC.***

*and*

***AL JOHNSON BROADCASTING COMPANY, LLC***

*For Purchase and Sale of  
Assets Pertaining to*

***Radio Station  
WSRG (FM)  
Sturgeon Bay, WI***

March, 2008

# ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement"), made and entered into this \_\_\_\_ day of March, 2008, by and between *MAGNUM BROADCASTING, INC.*, a Wisconsin corporation (hereinafter referred to as "Seller"), and *AL JOHNSON BROADCASTING COMPANY, LLC*, a Wisconsin limited liability company (hereinafter referred to as "Buyer"):

WITNESSETH:

**WHEREAS**, Seller is the owner, operator, and licensee of Radio Station WSRG (FM), Sturgeon Bay, WI (Facility ID # 21714) ("Station"), pursuant to valid licenses issued by the Federal Communications Commission ("FCC" or the "Commission"); and

**WHEREAS**, Buyer desires to acquire certain of the real and personal property, assets and rights used, useful or intended to be used, in the business and operation of Station and to secure an assignment of the licenses and other authorizations ("FCC Licenses") issued by the Commission for the operation of Station, and Seller desires to sell, assign, transfer and convey the same to Buyer; and

**WHEREAS**, Seller and Buyer will not be able to consummate this Agreement and the FCC Licenses may not be assigned until after the Commission has granted its consent and approval to the transactions contemplated herein;

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

**1. DEFINITIONS.** Unless otherwise stated in this Agreement, the following terms shall have the following meanings:

**1.1. Assignment Application** (or Application) refers to an application which the parties hereto will join in and file with the Commission requesting its written consent to the terms of this Agreement and the assignment of the FCC Licenses from Seller to Buyer.

**1.2. Closing Date** means a date mutually to be designated by Buyer and Seller which shall not be later than ten (10) days after the Commission Notice that it has approved and granted the Assignment Application becomes a Final Order, as defined herein; provided, however, that the Parties may mutually agree to an earlier Closing Date following Commission approval of the Application.

**1.3. Final Order** means an Order of the Commission granting its consent and

approval to the assignment of the FCC Licenses to Buyer, which Order is no longer subject to rehearing, reconsideration or review by the Commission, or to a request for stay, an appeal or review by any court under the Communications Act of 1934, or the Rules and Regulations of the Commission.

**1.4. Closing Place** means the offices of Buyer's attorney in Sturgeon Bay, WI, or such other convenient place to which Buyer and Seller may mutually agree.

**2. ASSETS SOLD AND PURCHASED.** Seller, on the Closing Date at the Closing Place, will sell, transfer, convey, assign and deliver to Buyer the following assets, business, rights, privileges and immunities of Seller and Station (the "Assets"):

2.1. The Station, as a going concern, together with all FCC Licenses, and all right, title and interest in and to the Call Letters, "WSRG (FM)." a listing of such licenses and authorizations shall be provided to Buyer no later than 15 days after filing with the Commission.

2.2. All tangible personal property, physical assets, fixtures, leasehold improvements, and equipment, including supplies, owned or hereinafter acquired by Seller, used, useful, or intended for use, in the operation of Station. A list of all such items shall be provided to Buyer in a schedule no later than 15 days after filing with the Commission.

2.3. The leases, contracts, franchises and agreements pertaining to the operation of the station; copies of such leases, contracts, franchises and agreements shall be provided to Buyer no later than 15 days after filing with the Commission.

2.4. All contracts and agreements for the sale of time on Station; a listing of such contracts and Agreements shall be provided to Buyer no later than 15 days after filing with the Commission.

2.5. All Trade and Barter Accounts of Seller; a listing of such contracts and Agreements shall be provided to Buyer no later than 15 days after filing with the Commission.

2.6. The documents maintained in the Station's Public File.

2.7. The program, operating and maintenance logs of Station.

**3. EXCLUDED ASSETS AND LIABILITIES.** It is understood and agreed that the assets and liabilities being sold to Buyer do not include cash on hand, or in bank, accounts receivable, notes receivable or securities owned by Seller, credit lines with local banks, current accounts payable due on or before the Closing Date, or any other assets or liabilities not specified in this Agreement or the attached Appendices, which assets and liabilities shall remain the property and/or responsibility of Seller.

**4. PURCHASE PRICE, ALLOCATION, AND METHOD OF PAYMENT.**

**4.1. Purchase Price.** The purchase price to be paid by Buyer to Seller for all of the property, assets, contracts, and rights to be acquired hereunder shall, subject to the adjustments

provided for below, be the sum of **Seven Hundred Twelve Thousand, Five Hundred and No/100 Dollars (\$712,500.00)**.

**4.2. Allocation.** The Purchase Price shall be allocated among the Purchased Assets in accordance with an Allocation Schedule prepared pursuant to Section 1060 of the Code and set forth in *Appendix F to be* attached hereto and made a part hereof.

**4.3. Method of Payment.** The purchase price shall be paid by Buyer to Seller in the following manner:

4.3.1. Upon execution of this Agreement, Buyer shall make an escrow deposit of Thirty-Five Thousand, Six Hundred Twenty-five and No/100 Dollars (\$35,625.00) ("Escrow Funds"). The Escrow funds shall be held in escrow in an interest bearing account in accordance with the terms of the Escrow Agreement attached hereto as *Appendix E* and made a part of this Agreement. At Closing the principal amount of the Escrow Funds shall be released and delivered to Seller as a credit against the purchase price. All accrued interest earned on the Escrow Funds shall be paid over to Buyer at Closing.

4.3.2. At the Closing, Buyer shall deliver to Seller, in the form of a certified bank cashier's check, wire transfer, or other immediately available funds, the sum of Six Hundred Seventy Six Thousand, Eight Hundred Seventy-five and No/100 Dollars (\$676,875.00), which, together with the Escrow Funds, shall constitute the Closing payment.

**5. PRORATIONS AND ADJUSTMENTS.** The expenses attributable to the operation of Station up to the closing of business on the day prior to the Closing Date shall be for the account of Seller and thereafter for the account of Buyer. The proration shall be made and paid, insofar as feasible, on the Closing Date, with a final settlement to be held, if necessary, three (3) months after the Closing Date.

**6. CONSENT OF THE COMMISSION.** It is specifically understood and agreed that the consummation of this Agreement shall be subject to the prior consent of the Commission without conditions materially adverse to Buyer. Upon the execution of this Agreement, Seller and Buyer will, each at their own expense, proceed to expeditiously prepare and file with the Commission the requisite Assignment Application to secure such consent, together with such other necessary instruments and documents as may be required. The parties further agree to tender the said Application to the Commission within ten (10) business days of the date hereof, and thereafter to prosecute said Application with diligence, and to cooperate with each other and to use their best efforts in good faith to obtain the requisite consent and approval promptly and to carry out the provisions of this Agreement.

**7. LEGAL NOTICE OF ASSIGNMENT APPLICATION.** Upon the filing of the Assignment Application, Seller shall be responsible for, and shall take the necessary steps, to provide such Legal Notice concerning the filing as is required by the Rules of the Commission.

**8. POSSESSION AND CONTROL.** Between the date of this Agreement and the Closing Date, Buyer shall not control the operation of Station, but such operation shall be the responsibility of Seller. Buyer shall, however, be entitled to reasonable inspection of the premises and assets, and to notice of any unusual operating problems or developments with the purpose that an uninterrupted and efficient transfer of ownership may be accomplished.

**9. TERMINATION OF AGREEMENT.** If the Commission has not acted upon and granted its consent and approval to the Assignment Application within six (6) months from the date the Application is announced as Accepted for filing with the Commission, this Agreement, at the option of either Seller or Buyer, and upon ten (10) days written notice to the other party, will become null and void; provided, however, that the party giving such notice is not in default of any provision of this Agreement. In case of termination under this section, the Escrow Funds shall be returned to Buyer.

**10. REMEDIES OF PARTIES**

**10.1. Seller's Remedies.** The parties hereto understand and agree that the damages to Seller as a result of Buyer's failure to consummate this Agreement would be difficult to ascertain with any degree of precision. Accordingly, in the event this Agreement is not consummated by reason of a default on the part of Buyer in material breach of of Buyer's covenants, warranties and representations, or other obligations under this Agreement, the Escrow deposit, together with all accrued interest thereon, shall be paid to Seller as liquidated damages for Buyer's default, it being agreed that said sum shall constitute full payment for any damages suffered by Seller by reason of Buyer's failure to consummate this Agreement.

**10.2. Buyer's Remedies.** The parties mutually understand and agree that the assets and property to be transferred pursuant to this Agreement are unique and cannot readily be purchased on the open market. For that reason, in the event Seller fails to consummate this Agreement, and such failure is by reason of a default of Seller in material breach of Seller's obligations under this Agreement, the Seller shall refund the Escrow Deposit together with all accrued interest to Buyer plus \$5,000.00.

**11. SELLER'S AFFIRMATIVE COVENANTS, REPRESENTATIONS AND WARRANTIES.**  
Seller covenants, represents and warrants to Buyer that:

**11.1. Organization and Standing.** Seller is now, and on the Closing Date will be, a corporation duly organized, validly existing, and permitted to carry on the business of Station as presently conducted under the laws of the State of Wisconsin.

**11.2. Authorization.** Seller has full power and authority to enter into this Agreement; the execution and delivery of this Agreement have been duly approved by the Board of Directors and shareholders of Seller; and the Agreement constitutes a valid and binding obligation of Seller in accordance with its terms.

**11.3. FCC Licenses.** Seller is now and on the Closing Date will be the holder of the FCC Licenses and permits for Station. The FCC Licenses are now and on the Closing Date will be, in force and effect. Seller shall have a reasonable opportunity prior to the Closing Date to contest in good faith or otherwise seek removal or rescission of any Notice of Violation or Apparent Liability issued or threatened by the Commission after the date hereof (so that no delay in the Closing will result), or to pay the same in full, without being deemed in default or in breach hereunder.

**11.4. Operation of Station.** Between the date hereof and the Closing Date, the Station shall be operated in the normal and usual manner and in material compliance with the FCC Licenses, the Communications Act, and the Rules and Regulations of the Commission. In addition, Seller agrees that it will not commit the station to any advertising or vendor agreement longer than ninety (90) days.

**11.5. Schedules of Assets.** All of the Personal Tangible Assets will be shown to Buyer by Seller subsequent to the filing of the FCC application and without material omission, a properly described and accurately listed schedule of such Assets shall be prepared and provided to Buyer no later than 15 days after filing with the Commission.

**11.6. Title to Personal Tangible Assets.** On the Closing Date Seller shall have good and marketable title to the Personal Tangible Assets to be conveyed and assigned pursuant to this Agreement, free and clear of all liens, charges, security interests, equities, encroachments and encumbrances.

**11.7. Adequacy, Condition and Maintenance of Equipment.** Subject to the Seller's warranty hereinafter set forth, Buyer accepts the the Personal Tangible Assets (the "equipment") in their present condition on an "as is—where is" basis. On the Closing Date the equipment will be in substantially the same operating condition as it is on the date this Agreement is signed, normal wear and tear excepted. Seller warrants that all transferred equipment is now, and as of the Closing Date, shall be in good working order.

**11.8. Litigation.** There is not now, and on the Closing Date there will not be, any judgment outstanding, or any claim, litigation, proceeding or investigation pending, or to the knowledge of Seller, threatened against Seller which would result in any material adverse change in the business, condition or earnings of Station.

**11.9. Disclosure.** To Seller's knowledge and belief, no covenant, representation or warranty by Seller and no written statement, schedule or certificate furnished or to be furnished by it pursuant thereto or pursuant to the Closing hereunder contains or will contain any untrue statement of a material fact.

**11.10. Operation in Ordinary Course.** Between the date hereof and the Closing Date, Seller shall continue to operate Station in the usual and ordinary course of business.

## **12. BUYER'S COVENANTS, REPRESENTATIONS AND WARRANTIES.**

Buyer covenants, represents and warrants to Seller that:

**12.1. Organization and Standing.** Buyer is, or will be, on the Closing Date, a limited liability company duly organized, validly existing and in good standing under the laws of the State of Wisconsin, and will be entitled and fully qualified to do business in Wisconsin.

**12.2. Authorization.** Buyer has full power and authority to enter into this Agreement; the execution and delivery of this Agreement have been duly approved by the Managing Member and Members of Buyer; and the Agreement constitutes a valid and binding obligation of Buyer in accordance with its terms.

**12.3. Assignment.** Buyer may not assign its rights and obligations under this Agreement to any party without the prior written consent of Seller. In the event of such approval, and Buyer's rights and obligations hereunder are assigned to a new or different company controlled by, controlling, or under common control with, Buyer, the Managers and members of the company will take all legal steps necessary to ratify the execution of this Agreement, to legally bind the company, and to ensure that, on the Closing Date it will be a company duly organized and validly existing, and that it will be authorized to do business under the laws of the State of Wisconsin. Buyer hereby guarantees the full and complete performance of any such company.

**12.4. Assumption.** Buyer will, on the Closing Date, assume and fully and faithfully perform all obligations of Seller under the leases and executory contracts to be assigned and transferred to Buyer under this Agreement, and outstanding as of the Closing Date.

**12.5. Financially Qualified.** Buyer has the financial resources to consummate and fully perform this Agreement according to its terms.

**12.6. FCC Qualifications.** To Buyer's knowledge and belief, Buyer possesses all of the requisite qualifications to become a Licensee of the Federal Communications Commission, and knows of no why the Commission should not find the Buyer fully qualified. Buyer shall cooperate fully and in good faith in supply the Commission with any information requested on the Assignment Application or thereafter, and shall take no action, nor fail to take such action as is required to demonstrate to the Commission Buyer's qualifications to be a licensee of the Commission.

**13. CONDITIONS PRECEDENT TO OBLIGATIONS.** The obligations of Seller and Buyer to consummate the transaction contemplated hereby and the obligation of Seller to assign, transfer and convey all of the assets and rights described herein to Buyer, is subject to the fulfillment prior to or at the Closing Date of each of the following conditions:

**13.1. Commission Approval.** That the Commission shall have consented to the Assignment Application without conditions materially adverse to Seller.

**13.2. Taxes, Fees and Expenses.** That, except as otherwise provided herein, Buyer and Seller shall have evenly paid at or before Closing, all sales, documentary, transfer or other taxes or fees assessed or levied in connection with the sale to Buyer hereunder, and each of Buyer and Seller will have paid all their respective costs and expenses of performance of and compliance with all agreements and covenants contained in this Agreement to be performed or complied with by it. Seller and Buyer shall share equally in the payment of any fee or charge made by the Commission pertaining to the filing, processing and granting of the Assignment Application.

**13.3. Representations and Warranties.** That the representations and warranties of Buyer and Seller contained in this Agreement, or in any related document attached or delivered pursuant hereto, shall be true and correct at and as of the Closing Date as though such representations and warranties were made at and as of such time.

**13.4. Performance.** That Buyer and Seller shall have performed and complied with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date.

**13.5. Allocation of Purchase Price.** That buyer and Seller shall have agreed to the allocation of the Purchase Price among the Assets in accordance with Section 4.2 of this Agreement to be set forth and attached hereto in an Appendix F and made a part hereof.

**13.6. Consents to Assignments.** That the consent of any third party to any assignment, if required by the instrument being assigned (e.g. lease or other) shall have been obtained or waived by Buyer.

**13.7. Releases.** That the Seller shall have delivered (or tendered subject only to Closing) releases of the Assets by any secured party.

**14. RISK OF LOSS.** The risk of loss, damage or destruction to any of the property or assets to be transferred to Buyer hereunder from fire or other casualty or cause shall be borne by Seller at all times up to the close of business on the Closing Date, and thereafter shall be borne by Buyer. In the event that the property suffers damage prior to the Closing Date, and is not completely repaired, replaced or restored on or before the Closing Date, the parties, by agreement may elect to postpone Closing until such time as the property has been repaired, replaced or restored.

**15. INDEMNIFICATION.**

**15.1. By Seller.** Seller hereby agrees to indemnify and hold Buyer, its successors and assigns, harmless from and against:

15.1.1. Any and all claims, liabilities and obligations of every kind and description, contingent or otherwise, arising from or related to the operation of the Station prior to close of business on the Closing Date.

15.1.2. Any and all damages or deficiency resulting from any material misrepresentation, breach of warranty or covenant, or nonfulfillment of any material agreement or obligation on the part of Buyer under, or pursuant to this Agreement, or from any material misrepresentation in or material omission from any certificate or other instrument furnished to Buyer pursuant to this Agreement or in connection with any of the transactions contemplated hereby.

15.1.3. Any and all actions, suits, proceedings, damages, assessments, judgments, costs and expenses, including reasonable attorneys' fees incident to any of the foregoing provisions.

If any claim or liability shall be asserted against Buyer which would give rise to a claim by Buyer against Seller for indemnification under the provisions of this Paragraph, Buyer shall promptly notify Seller in writing of the same and Seller shall, at its own expense, respond to or defend against any such claim.

**15.2. By Buyer.** Buyer hereby agrees to indemnify and hold Seller, its successors and assigns, harmless from and against:

15.2.1. Any and all claims, liabilities and obligations of every kind and description, contingent or otherwise, arising from or related to the operation of the Station subsequent to close of business on the Closing Date, including, but not limited to, any and all claims, liabilities and obligations arising or required to be performed subsequent to the close of business on the Closing Date under any contract or instrument assumed by Buyer hereunder.

15.2.2. Any and all damages or deficiency resulting from any material misrepresentation, breach of warranty or covenant, or nonfulfillment of any material agreement or obligation on the part of Buyer under, or pursuant to this Agreement, or from any material misrepresentation in or material omission from any certificate or other instrument furnished to Seller pursuant to this Agreement or in connection with any of the transactions contemplated hereby.

15.2.3. Any and all actions, suits, proceedings, damages, assessments, judgments, costs and expenses, including reasonable attorneys' fees incident to any of the foregoing provisions.

If any claim or liability shall be asserted against Buyer which would give rise to a claim by Seller against Buyer for indemnification under the provisions of this Paragraph, Seller shall promptly notify Buyer in writing of the same and Buyer shall, at its own expense, respond to or defend against any such claim.

**15.3. Materiality.** For purposes of this Paragraph, material misrepresentation or omission or breach of warranty shall be deemed dollar amount which exceeds the sum of Two Thousand Five hundred Dollars (\$2,500.00 in the aggregate cumulative for all such items).

**16. SELLER'S PERFORMANCE AT CLOSING.** On the Closing Date at the Closing Place Seller shall execute and deliver or cause to be delivered to Buyer:

16.1. An Assignment to Buyer of the FCC Licenses for Station, together with any and all other related authorizations.

16.2. An Assignment to Buyer of all right, title and interest in and to the Call Letters.

16.3. One or more Bills of Sale assigning, transferring and conveying to Buyer all of the Personal Tangible Assets to be acquired by Buyer pursuant to the terms of this Agreement.

16.4. An Assignment to Buyer of the leases, contracts, franchises and agreements to be assigned by Seller hereunder, and the original copies of said documents.

16.5. An Assignment of all documents maintained in the Public File of the Station.

16.6. The files, records, and logs of Station, or copies thereof.

16.7. A copy of a Resolution of Seller's Board of Directors and shareholders, certified by Seller's Secretary, authorizing the execution, delivery and performance of this Agreement.

16.8. A Certification by Seller that all of the warranties and representations of Seller set forth in this Agreement are true as of the Closing Date, and that all of the covenants, agreements, and obligations of Seller required to be performed prior to or on the Closing Date have been so performed.

16.9. Such instructions to the Escrow Agent so as to cause the Escrow Deposit provided for herein, to be released and delivered to Seller by the Escrow Agent and any accrued interest on Escrow Deposit be delivered to Buyer

16.10 A certification by Seller that Seller's use of any assets, marketing materials or other property that include the call letters WSRG or the STAR 97 alpha-numeric will cease within one week after closing, and that Seller shall agree to refrain from operating Station WAUN-FM as a "Hot Adult Contemporary" music station for a period of twenty-four (24) months after closing.

**17. BUYER'S PERFORMANCE AT CLOSING.** On the Closing Date at the Closing place Buyer shall deliver to Seller:

17.1. A certified bank cashier's check or other immediately available funds in the amount of \$676,875.00;

17.2 Such documents as may be required in order to assume those contracts and agreements which Buyer has agreed to assume and perform.

17.3 A copy of a Resolution of Buyer's Managing Member and Members, certified by the Managing Member of Buyer, authorizing the execution, delivery and performance of this Agreement.

17.4 A Certification by Buyer that all of the warranties and representations of Buyer set forth in this Agreement are true as of the Closing Date, and that all of the covenants, agreements, and obligations of Buyer required to be performed prior to or on the Closing Date have been so performed.

17.5 Such instructions to the Escrow Agent so as to cause the Escrow Deposit provided for herein, to be released and delivered to Seller by the Escrow Agent and any accrued interest on Escrow Deposit be delivered to Buyer

**18. SURVIVAL OF COVENANTS, REPRESENTATIONS AND WARRANTIES.** The parties hereto understand and agree that all representations, covenants and warranties and agreements contained in this Agreement shall be deemed to be continuing and shall survive the Closing Date, the delivery of the property and assets to Buyer and the payment of the purchase price to Seller for a period of one (1) year.

**19. FINDERS, CONSULTANTS AND BROKERS.** Seller and Buyer acknowledge that Jerry Lousteau is the broker involved in this transaction, and that his fee of \$42,750.00, which fee is separate from and in addition to the Purchase Price to be paid hereunder, shall be shared equally by Seller and Buyer at Closing.

**20. NOTICES.** Any notice, consent, waiver or other communications hereunder shall be sent by certified or registered mail, return receipt requested, postage prepaid, or USPS Express air service, overnight air courier service or same day delivery service, to the address specified below (or at such other address which party shall specify to the other party in accordance herewith):*If to Seller:*

Mr. David R. Magnum  
N6837 Bobbi Road  
Pardeeville, WI 53954  
PH: 608-742-2544

*with Copy to:*

Denise B. Moline, Esq.  
358 Pines Blvd.  
Lake Villa, IL 60046  
PH: 847-245-7414

*If to Buyer:*

Al Johnson Broadcasting, LLC  
9176 State Highway 57

Brussels, WI 54204

PH:

*with Copy to:*

Attorney Mark A. Jinkins  
Pinkert Law Firm LLP  
454 Kentucky Street  
P.O. Box 89  
Sturgeon Bay, WI 54235  
PH: 920-743-6505  
Fax: 920-743-4760  
Email: mjinkins@pinkertlawfirm.com

Notice shall be deemed to have been given three business days after mailing if sent by registered or certified mail, or on the next business day if sent by USPS express mail, overnight air courier, or same day delivery service.

**21. FURTHER ASSURANCES.** The parties to this Agreement hereby each pledge to the other that they shall take whatever steps are reasonably necessary, in good faith, and shall use their best efforts to carry out their obligations under this Agreement so that the transactions contemplated herein shall be consummated in a complete and expeditious manner.

**22. OTHER DOCUMENTS.** The parties shall execute such other documents as may be necessary and desirable to the implementation and consummation of this Agreement.

**23. APPENDICES.** All Appendices attached to this Agreement shall be deemed to be part of this Agreement and incorporated in it, where applicable, as if fully set forth in the body of this Agreement. If any provision in any Appendix conflicts with or is not consistent with the provisions of this Agreement, the terms of this Agreement shall govern.

**24. SEPARATE COUNSEL.** Each party has retained independent counsel in connection with the negotiation and preparation of this Agreement, and have consulted with and sought advice from their respective counsel, prior to execution, concerning their respective rights and duties under this Agreement.

**25. HEADINGS.** The headings of the Sections of this Agreement are inserted as a matter of convenience and for reference purposes only and in no way define, limit or describe the scope of this Agreement nor the intent of any Section.

**26. CONSTRUCTION.** This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

**27. ENTIRE AGREEMENT.** This Agreement contains all of the terms and conditions agreed upon with respect to the subject matter. No alteration, modification or change of this Agreement shall be valid unless by like instrument.

**28. SEVERABILITY.** If any provision or provisions contained in this Agreement is held to be invalid, illegal or unenforceable, this shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had not been contained herein.

**29. MODIFICATION AND WAIVER.** No modification or waiver of any provision of this Agreement shall in any event be effective unless the same shall be in writing signed by the party against whom the waiver is sought to be enforced, and then such waiver and consent shall be effective only in the specific instance and for the purpose for which given.

**30. NO WAIVER; REMEDIES CUMULATIVE.** No failure or delay on the part of either party in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of Seller and Buyer herein provided are cumulative and are not exclusive of any right or remedies which they may otherwise have.

**31. BENEFIT.** The parties understand and agree that this Agreement shall be binding upon and inure to the benefit of the parties hereto and, their successors and their assigns.

**32. ATTORNEYS' FEES.** In the event any action, suit or other proceeding is instituted by a party to enforce any of the terms and provisions contained herein, the prevailing party in such action shall be entitled to recover its costs and expenses, including reasonable attorneys' fees.

**33. COUNTERPARTS.** This Agreement may be signed by any number of counterparts with the same effect as if the signature of each such counterpart were upon the same instrument.

IN WITNESS WHEREOF, the parties, by their duly-authorized representatives, have executed this Agreement as of the date and year first above written.

**SELLER**

***MAGNUM BROADCASTING, INC.***

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

  
David R. Magnum, President

**BUYER:**

***AL JOHNSON BROADCASTING, LLC***

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

Al Johnson, Managing Member

**IN WITNESS WHEREOF**, the parties, by their duly-authorized representatives, have executed this Agreement as of the date and year first above written.

**SELLER**

***MAGNUM BROADCASTING, INC.***

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

David R. Magnum, President

**BUYER:**

***AL JOHNSON BROADCASTING, LLC***

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

Al Johnson, Managing Member

## **APPENDICES**

<b>Appendix A</b>	FCC Licenses, Authorizations and Permits
<b>Appendix E</b>	Escrow Agreement
<b>Appendix F</b>	Allocation of Purchase Price (to be attached)

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## **ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (the Escrow Agreement") is made and entered into by and among **MAGNUM BROADCASTING, INC.** (hereinafter referred to sometimes as "Seller"), **AL JOHNSON BROADCASTING, LLC** (hereinafter sometimes referred to as "Buyer"), and **JERRY LOUSTEAU** (hereinafter sometimes referred to as "Escrow Agent").

WHEREAS, the Seller and Buyer have entered into an Asset Purchase Agreement (hereinafter the "Agreement"), regarding the sale and conveyance of all assets by Seller to Buyer of WSRG Radio Station in Sturgeon Bay, Wisconsin, a copy of which is attached hereto as Exhibit "A"; and,

WHEREAS, Buyer has agreed to deposit the sum of Thirty-five Thousand Six Hundred Twenty-five Dollars (\$35,625.00) with the Escrow Agent to evidence its good faith intent to proceed with the subject transaction, which shall, pursuant to the terms of the Agreement be applied to the purchase price or paid unto the Seller as liquidated damages, as the cause may be.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned parties agree as follows:

### **SECTION 1. Appointment of Escrow Agent**

The Seller and Buyer appoint Jerry Lousteau as Escrow Agent under this Agreement on the terms and conditions set forth herein. By its execution hereof, the Escrow Agent hereby agrees to accept the appointment and agrees to perform all of its duties and obligations set forth herein.

### **SECTION 2. Escrow Fund and Release of Funds**

Concurrent with the execution of the Agreement, Buyer shall deliver to the Escrow Agent the sum of Thirty-five Thousand Six Hundred Twenty-five Dollars (\$35,625.00) hereinafter referred to as the "Escrow Funds", which shall be immediately deposited by the Escrow Agent in a "Restrictive Use" account (hereinafter referred to as the "Account"), with Regions Bank. Said funds deposited in said Account shall only be held, invested and disbursed in accordance with the terms and conditions of this Agreement, as well as the laws of the State of Mississippi.

Upon notification by Seller and Buyer, in writing, of the time, manner and party to which the funds shall be paid, the Escrow Agent shall cause funds to be withdrawn from said Account and delivered to the designated party. In the event the Escrow Agent fails

to receive any written instructions contemplated by this Escrow Agreement, the Escrow Agent shall refrain from taking any action required to be taken under this Escrow Agreement until written instructions are delivered to him. In so refraining, the Escrow Agent shall be fully protected from any liability arising out of its inaction.

Upon the payment by the Escrow Agent of the funds to the appropriate party, the Escrow Agent shall be discharged and relieved from any and all further responsibility.

### SECTION 3. Investment of Funds by Escrow Agent

The Escrow Agent shall invest and reinvest the Escrow Deposit and all earnings on the Escrow Deposit (the "Interest" and, together with the Escrow Deposit, the "Escrow Funds") in bank accounts which permit the prompt transmission of funds to the parties upon disbursement of the Escrow Funds in accordance with Section 3 of this Agreement, and which cannot erode the Escrow Deposit. Acceptable investments include savings accounts, bank money market accounts, and other comparable accounts and money market funds, but exclude corporate equity or debt securities, repurchase agreements, banker's acceptances, commercial paper and municipal securities.

### SECTION 4. Duties and Liabilities of Escrow Agent

The Escrow Agent shall have no duty or obligation hereunder other than to take the specific actions as required from time to time by the provisions of the Agreement and shall incur no liability hereunder or in connection herewith for any reason whatsoever other than any liability resulting from its gross negligence or willful misconduct or unlawful acts or omissions. The only duties and responsibilities of the Escrow Agent shall be the duties and obligations specifically set forth in the Agreement. The Escrow Agent has no duty to perform any calculation with respect to the proper amount to be paid from the escrow funds.

The Seller and Buyer shall indemnify, hold harmless and defend Escrow Agent from and against any and all losses, claims, liabilities or reasonable expenses including the reasonable fees of its counsel, which it may suffer in connection with the performance of its duties and obligations under the obligations of this Escrow Agreement.

### SECTION 5. Intended Beneficiaries

No persons or entities, other than the Seller or Buyer, are intended beneficiaries of funds deposited in the Account. The provisions of this Escrow Agreement, as well as the Agreement, shall be binding upon and inure to the benefit of the undersigned parties and their respective successors.

SECTION 6. Governing Law

This Escrow Agreement shall be construed and governed in accordance with the laws of the State of Mississippi. The jurisdiction and venue of any suit action proceeding seeking to interpret or enforce any provisions of, or based upon any rights arising out of, this Escrow Agreement shall be the Chancery Court of Madison County, Mississippi.

SECTION 7. Notices

All notices required by this Escrow Agreement shall be in writing and shall be deemed to have been received (i) immediately if sent by facsimile transmission (with a confirming copy sent the same business day by registered or certified mail); (ii) by hand delivery; or (iii), the next business day if sent by a national recognized overnight courier, in any case, to the respective addresses as follows:

Seller	David Magnum Magnum Broadcasting, Inc. N6837 Bobbi Road Pardeeville, WI 53954 Facsimile No. 608-742-8890
Buyer:	Al Johnson Broadcasting, LLC 9176 State Hwy. 5 Brussels, WI 54207 Facsimile No.
Escrow Agent	Jerry Lousteau 254 Fox Lane Canton, MS 39406 Facsimile No. 601-859-2664

If any party changes its address for notices required by this Escrow Agreement, that entity shall immediately notify the other undersigned parties of that change. Written notice required by this Escrow Agreement shall be deemed sufficient and adequate if sent to the last known business address in the manner provided by this section.

SECTION 8. Severability

If any provision of this Escrow Agreement shall, under any circumstance, be deemed invalid or inoperative, this Escrow Agreement shall be construed with the invalid or inoperative provisions deleted and the rights and obligations of the parties shall be construed and enforced accordingly.

#### SECTION 9. Amendments

This Escrow Agreement may be amended only by written instrument executed by all parties hereto. The waiver of any party of any breach of this Escrow Agreement shall not be deemed or construed as waiver of any other breach, for the prior, subsequent or contemporaneous, of this Escrow Agreement nor shall said waiver be deemed to be construed as waived by any other party.

#### SECTION 10. Counterparts

This Escrow Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if signatures thereon were upon the same instrument. Delivery by facsimile of a signed counterpart shall be deemed delivered for purposes of acknowledgment and acceptance hereof.

#### SECTION 11. Captions

Captions hereunder are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

#### SECTION 12. Conditions of Effectiveness

This Escrow Agreement shall become effective when signed by all parties hereto.

#### SECTION 13. Resolution of Disputes

In the event of any disagreement resulting in adverse claims or demands being made in connection with the subject matter of this Escrow Agreement, the Escrow Agent may, at his sole option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder, so long as such disagreement continues and in any such event, the Escrow Agent shall not be or become liable in any way to any person or entity for its failure or refusal to act, and the Escrow Agent shall be entitled to continue to so refrain from acting until (1) the rights of all parties have been fully and finally adjudicated by a court of competent jurisdiction, or (2) all differences shall be adjudged and all doubt resolved by agreement among all interested parties, and the Escrow Agent shall have been notified thereof in writing signed by such persons. In addition to the foregoing remedies, in such event, the Escrow Agent is hereby authorized to petition a court of competent jurisdiction for instructions or to interplead the funds or assets so held into such court. The undersigned parties agree to the jurisdiction of the Chancery Court of Madison County, Mississippi, waive personal service of process, and agree that service of process by certified registered mail, return receipt requested, to the addresses set forth herein shall constitute adequate service.

The parties agree that upon final adjudication of such petition or interpleader action, the Escrow Agent, its agent, servants, employees, members and officers will be relieved from any further liability.

SELLER:

MAGNUM BROADCASTING, INC.

By: \_\_\_\_\_  
David Magnum, President

Date: \_\_\_\_\_

BUYER:

AL JOHNSON BROADCASTING, LLC

By: \_\_\_\_\_  
Al Johnson, Managing Member

Date: \_\_\_\_\_

ESCROW AGENT:

\_\_\_\_\_  
Jerry Lousteau

Date: \_\_\_\_\_

The parties agree that upon final adjudication of such petition or interpleader action, the Escrow Agent, its agent, servants, employees, members and officers will be relieved from any further liability.

SELLER:

MAGNUM BROADCASTING, INC.

By: \_\_\_\_\_  
David Magnum, President

Date: \_\_\_\_\_

BUYER:

AL JOHNSON BROADCASTING, LLC

By: ALJ  
Al Johnson, Managing Member

Date: 3-3-08

ESCROW AGENT:

\_\_\_\_\_  
Jerry Lousteau

Date: \_\_\_\_\_

The parties agree that upon final adjudication of such petition or interpleader action, the Escrow Agent, its agent, servants, employees, members and officers will be relieved from any further liability.

SELLER:

MAGNUM BROADCASTING, INC.

By: \_\_\_\_\_  
David Magnum, President

Date: \_\_\_\_\_

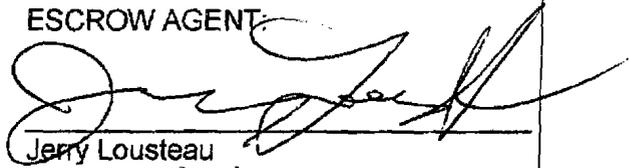
BUYER:

AL JOHNSON BROADCASTING, LLC

By: \_\_\_\_\_  
Al Johnson, Managing Member

Date: \_\_\_\_\_

ESCROW AGENT:

  
\_\_\_\_\_

Jerry Lousteau

Date: 2/3/09