

SIMULTANEOUS TAX DEFERRED EXCHANGE AGREEMENT

THIS AGREEMENT, made and entered into this 10th day of March, 2023, by and between **LIGHTNER COMMUNICATIONS, LLC** ("Lightner") on the one hand, and **COVENANT COMMUNICATIONS, LLC** ("CC") and **JFLIV, LLC** ("JFL", and sometimes hereinafter referred to collectively with CC as Covenant), on the other hand, and Lightner and Covenant are sometimes hereinafter collectively referred to as "Parties" or singly as "Party".

W I T N E S S E T H:

WHEREAS, Lightner is the licensee by the Federal Communications Commission ("FCC") of the following radio broadcast stations (the "Lightner Stations"), to wit:

(i) W282CV-104.3, Facility ID 201316, licensed to State College, PA, and

(ii) WPHB-AM, Facility ID 43879, licensed to Phillipsburg, PA,

and is the licensee, owner and/or lessee of certain real and personal property together with Federal Communications Commission ("FCC") broadcast licenses for the Lightner Stations ("Lightner FCC Licenses") used in connection with the operation of the Lightner Stations (the foregoing real and personal property together with the Lightner FCC Licenses hereinafter referred to collectively as the "Lightner Radio Properties"); and

WHEREAS, JFL is the licensee by the FCC ("JFL FCC Licenses") of the following radio broadcast station (the "JFL Station"), to wit:

(i) WRSC-FM (formerly WZWW-FM), 95.3, Facility ID 64572, licensed to Bellefonte, Pennsylvania; and

WHEREAS, CC is the owner and/or lessee of certain real and personal property used in connection with the operations of the JFL Station (the foregoing real and personal property together with the JFL FCC Licenses hereinafter referred to collectively as the "Covenant Radio Properties"); and

WHEREAS, Lightner wishes to transfer the Lightner Radio Properties to Covenant, together with additional consideration, in exchange for the transfer by Covenant to Lightner of the Covenant Radio Properties, together with additional consideration in such a way as the exchange, to the extent possible for the Parties, will qualify for tax-deferred treatment under Section 1031 of the Internal Revenue Code of 1986, as amended (the "Code"), and similar state statutes;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements between the Parties as contained herein, the Parties hereby agree that:

1. **Lightner Radio Properties.** On the Closing Date, as hereinafter defined, Lightner will transfer, assign and convey to JFL by appropriate instrument(s) of transfer, free and clear of all liens and encumbrances, all of its right, title and interest in and to the Lightner FCC Licenses, and Lightner will transfer, assign and convey to CC by appropriate instrument(s) of transfer, all of its right, title and interest in and to certain real property (and will cause its affiliate, Lightner Real Estate Holdings, LLC to also convey its interest) and personal property, owned or leased by Lightner and associated with the Lightner Radio Properties, as more specifically set forth on Exhibits "A", "B" and "C" attached hereto. In addition to the foregoing, on the Closing Date, Lightner will deliver to Covenant a promissory note (the "Note") in the principal amount of ONE HUNDRED THOUSAND (\$100,000) DOLLARS, payable without

interest in 100 equal monthly payments of ONE THOUSAND (\$1,000) DOLLARS each, which Note shall be in the form attached hereto as Exhibit "G".

2. **JFL Stations.** On the Closing Date, JFL will transfer, assign and convey to Lightner, by appropriate instrument(s) of transfer, free and clear of all liens and encumbrances, all of its right, title and interest in and to the JFL FCC Licenses, and CC will transfer, assign and convey to Lightner, by appropriate instrument(s) of transfer, free and clear of all liens and encumbrances, all of its right, title and interest in and to certain real and personal property owned or leased by CC and associated with the Covenant Radio Properties, as more specifically set forth on Exhibits "D", "E" and "F" attached hereto.

3. **Section 1031 Exchange.** The exchange of the Covenant Radio Properties for the Lightner Radio Properties, and of the Lightner Radio Properties for the Covenant Radio Properties to the extent permissible, is intended to qualify for tax-deferred treatment under Section 1031 of the Internal Revenue Code (the "Code") for Covenant and Lightner, and each Party hereby covenants and agrees to use its reasonable efforts and diligence to assist and cooperate with the other Parties in order to effectuate said like kind exchange.

4. **Representations and Warranties of Lightner.** Lightner represents and warrants that:

4.1 **Organization and Standing.** It is duly organized, validly existing and in good standing under the laws of the State of organization.

4.2 **Authorization.** It has taken all necessary corporate action to duly approve the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, and this Agreement constitutes the valid and binding agreement of it, enforceable in accordance with its terms.

4.3 **FCC Licenses.** It is the holder of the Lightner FCC Licenses as listed in Exhibit "A" attached hereto, and the Lightner FCC Licenses are in full force and effect and unimpaired by any act or omission of it or, to its knowledge, any other person or entity.

4.4 **Other Lightner Property.** It is the lessee or owner of the real property and personal, tangible and intangible, property interests set forth and described on Exhibit "B" attached hereto, and on the Closing Date will be free and clear of any and all encumbrances of any nature; provided, however, that Lightner Real Estate Holdings, LLC will on the Closing Date also convey its interest in the real property shown on Exhibit "C".

4.5 **Litigation.** On the Closing Date there will be no litigation, action, suit, judgment, proceeding or, to its knowledge, any investigation pending or outstanding before any forum, court, or governmental body, department or agency of any kind to which Lightner or the Lightner Radio Properties are a party, nor to its knowledge will any such litigation be threatened.

4.6 **FCC Qualified.** It is, or will be as of the Closing, legally qualified to be the licensee of, acquire, own and operate the JFL Station under the Communications Act of 1934, as amended, and the rules and regulations of the FCC.

5. **Representations and Warranties of Covenant.** JFL and CC represent and warrant that:

5.1 **Organization and Standing.** Each is duly organized, validly existing and in good standing under the laws of their state of organization.

5.2 **Authorization.** Each has taken all necessary action to duly approve the execution, delivery and performance of this Agreement and the consummation of the

transactions contemplated hereby, and this Agreement constitutes the valid and binding agreement of each enforceable in accordance with its terms.

5.3 **FCC Licenses.** JFL is the holder of the JFL FCC Licenses as listed in Exhibit "D" attached hereto, and the JFL FCC Licenses are in full force and effect and unimpaired by any act or omission of JFL, or, to its knowledge, any other person or entity.

5.4 **Other Covenant Property.** CC is now or will be the lessee or owner on the Closing Date of the real and personal property, tangible and intangible, property interests set forth and described on Exhibits "E" and "F" attached hereto, and on the Closing Date will be free and clear of any and all encumbrances of any nature.

5.5 **Litigation.** On the Closing Date there will be no litigation, action, suit, judgment, proceeding or, to their respective knowledge, any investigation pending, or outstanding before any forum, court, or governmental body, department or agency of any kind to which CC or JFL or the Covenant Radio Properties are a party, nor to their knowledge will any such litigation be threatened.

5.6 **FCC Qualified.** It is, or will be as of the Closing, legally qualified to be the licensee of, acquire, own and operate the Lightner Station under the Communications Act of 1934, as amended, and the rules and regulations of the FCC.

6. **Affirmative Covenants.** Between the date hereof and the Closing Date,

6.1 Lightner and JFL will respectively maintain the Lightner FCC Licenses and JFL FCC Licenses:

(a) In substantial conformity with Communications Act of 1934, as amended, and the rules and regulations of the FCC; and

(b) In substantial conformity with all other material applicable laws, ordinances, regulations, rules and orders.

6.2 The Parties will cooperate in the preparation and filing of one or more FCC applications seeking consent to the assignment of the Lightner Licenses to JFL and the JFL Licenses to Lightner (the "Assignment Applications"), and shall each diligently prosecute such applications, promptly advising the other Party in the event of any communications received or filings made in connection therewith.

7. **Final Order**. The term "Final Order" as used herein, shall mean action by the FCC granting the assignment of the Lightner FCC Licenses to JFL, and the assignment of the JFL FCC Licenses to Lightner, which actions are no longer subject to administrative or judicial appeal, review, reconsideration, or rehearing within applicable administrative or judicial time limits.

8. **Closing**. The term "Closing" as used herein, means the consummation of the transactions contemplated by this Agreement.

9. **Closing Date**. The term "Closing Date" as used herein, means the date on which the Closing occurs, which date shall be within five (5) business days after the occurrence of the Final Order, and the satisfaction or waiver by the respective Party of all Closing Conditions (as hereinafter defined), unless the Parties agree to an earlier Closing Date.

10. **Conditions Precedent to Closing**. The obligation of Lightner and Covenant to consummate the transactions contemplated herein is subject to the fulfillment prior to and as of the Closing on the Closing Date of each of the following conditions:

10.1 **FCC Approval**. Each of the Assignment Applications have been granted by the FCC.

10.2 **Representations and Warranties.** The representations and warranties of the Parties contained in this Agreement shall be true and correct all material respects at and as of the Closing Date as if made on the Closing Date.

10.3 **Consents.** All necessary approvals and consents to the assignment to any Party of any contracts or leases for real property interests have been obtained and properly delivered.

11. **Indemnification.**

11.1 **Indemnification by Lightner.** Lightner hereby indemnifies, defends and holds harmless JFL and CC, and their respective successors and assigns, from and against:

11.1.1 Any and all claims, demands, liabilities, obligations, actions, suits, proceedings, losses, damages, costs, expenses, assessments, judgments, recoveries and deficiencies, including interest, penalties and reasonable attorneys' fees, of every kind and description, contingent or otherwise, but not consequential damages of any kind whatsoever (the foregoing herein collectively referred to as "Damages"), occasioned by, arising out of or resulting from the operation of the Lightner Radio Properties prior to the Closing Date.

11.1.2 Any and all Damages occasioned by, arising out of or resulting from any misrepresentation, breach of warranty or covenant, or default or nonfulfillment of any agreement on the part of Lightner under this Agreement, or from any misrepresentation in or breach of any certificate, agreement, appendix, schedule, or other instrument furnished to JFL or CC pursuant to this Agreement or in connection with any of the transactions contemplated hereby.

11.2 **Indemnification by Covenant.** JFL and CC hereby indemnify, defend and hold harmless Lightner, and its respective successors and assigns, from and against:

11.2.1 Any and all Damages occasioned by, arising out of or resulting from the operation of the Covenant Radio Properties prior to the Closing Date.

11.2.2 Any and all Damages occasioned by, arising out of or resulting from any misrepresentation, breach of warranty or covenant, or default or nonfulfillment, of any agreement on the part of JFL or CC under this Agreement, or from any misrepresentation in or breach of any certificate, agreement, appendix, schedule or other instrument furnished to Lightner pursuant to this Agreement or in connection with any of the transactions contemplated hereby.

11.3 **Third-Party Claims.** In the event of third-party claims, each Party ("Indemnified Party") shall give notice in accordance with Section 11 below, to the other Party ("Indemnifying Party") as soon as practicable and in no event later than ten (10) business days of the occurrence of any event, or of its discovery of any facts, which in its opinion entitle or may entitle it to indemnification under this Section. However, failure to give such notice shall not preclude the Indemnified Party from seeking indemnification hereunder, unless, and to the extent that, such failure adversely affects to a material degree the Indemnifying Party's ability to defend against such a claim. The Indemnifying Party shall promptly defend such a claim by counsel of its own choosing and the Indemnified Party shall appear at any proceeding, at its own cost, by counsel of its own choosing and shall otherwise cooperate in the defense of such claim, including the settlement of the matter on the basis stipulated by the Indemnifying Party (with the Indemnifying Party's being responsible for all costs and expenses of such settlement). If the Indemnifying Party within fourteen (14) calendar days after notice of a claim fails to defend the

Indemnified Party, the Indemnified Party shall be entitled to undertake the defense, compromise or settlement of such claim at the expense of and for the account and risk of the Indemnifying Party. Upon the assumption of defense of such claim, the Indemnifying Party may settle, compromise or defend as it sees fit. However, anything in this Section to the contrary notwithstanding:

11.3.1 If there is a reasonable probability that a claim may materially and adversely affect the Indemnified Party, the Indemnified Party will have the right, at its own cost and expense, to appear, but shall cooperate with the Indemnifying Party, which shall continue to control such action; and the Indemnified Party shall not compromise or settle such claim in a manner which materially adversely affects the Indemnifying Party without the Indemnifying Party's prior written consent, such consent not unreasonably to be withheld;

11.3.2 If the facts giving rise to indemnification hereunder shall involve a possible claim by the Indemnified Party against a third party, the Indemnified Party shall have the right, at its own cost and expense, to undertake the prosecution, compromise and settlement of such claim; and

11.3.3 The Indemnifying Party will use its best effort not to enter into or settle or compromise any claim or consent to any entry of judgment which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party of a release from all liability in respect to such claim.

11.4 **Time Period.** The indemnification provisions set out in this Section are intended to cover all acts, suits, proceedings, claims, demands, assessments, adjustments, interest, penalties, costs, and expenses arising within twelve (12) months of the Closing Date. It shall not matter for the purposes of any Parties' indemnity obligations under this

Section whether suit is instituted or not and, if instituted, whether the suit is resolved or not during the twelve (12) month period, so long as the indemnifying party has received notice of the claim triggering the indemnity obligation during the period.

11.5 **Indemnification As Exclusive Remedy.** The Parties (i) agree that following the Closing a claim for indemnification pursuant to Section 11 shall be the sole and exclusive remedy which a Party shall have against another Party under or with respect to this Agreement, and the transactions contemplated hereby, whether for breach or misrepresentation of any representation, warranty, covenant, obligation, agreement or condition or otherwise; (ii) waive any and all other rights and remedies at law or in equity; and (iii) agree that following the Closing the only legal action that may be asserted by any Party with respect to any matter that is the subject of this Agreement shall be a breach of contract action to enforce or recover damages for breach of this Section.

12. **Expenses/Taxes.**

(a) All expenses incurred in connection with this transaction shall be borne by the Party incurring the same.

(b) All fees assessed or levied in connection with the transactions described herein, and all FCC filing fees, shall be shared equally by the Parties on the Closing Date.

13. **Notices.** All notices, demands and requests, required or permitted to be given under the provisions of this Agreement shall be in writing and deemed duly given if sent by express mail, postage prepaid, or overnight express service, effective upon receipt and addressed as follows:

13.1 If to Lightner:

Lightner Communications, LLC
1771 Beaver Dam Road
Claysburg, Pennsylvania 16625
Attn: Matthew Lightner

13.2 If to Covenant:

Covenant Communications, LLC
36 E. Shore Drive
Jefferson Township, PA 18436
Attn: James F. Loftus, IV

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

Robert F. Wright, Jr., Esq.
2604 Commons Blvd.
Augusta, Georgia 30909

14. **Successors and Assigns.** This Agreement shall be binding upon, and shall inure to the benefit of, the Parties and their respective successors and assigns, provided, however, that any assignee of any Party hereto shall be bound by the terms, provisions and obligations of the applicable assignor, as if the assignee were an original signatory to this Agreement. The Parties may not assign their rights and obligations hereunder to another party or parties without the approval of the other Parties, which approval shall not be unreasonably withheld.

15. **Construction.** This Agreement shall be governed, construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania.

16. **No Brokerage Commission.** The Parties represent to one another that no Party is responsible for a brokers commission with respect to this transaction. Each Party shall hold all other Parties harmless from any claim or obligation for such commission.

17. **Termination.** This Agreement shall terminate:

17.1 Upon the mutual agreement of the Parties.

17.2 Six months after the date hereof if the transactions contemplated hereunder have not been consummated.

18. **Entire Agreement.** This Agreement, and the exhibits hereto and all agreements to be delivered by the Parties represent the entire understanding and agreement between the Parties with respect to the subject matter hereof, supersede all prior negotiations between the Parties, and terminate any and all other agreements, written or oral, between the Parties with respect to the subject matter hereof, and can be amended, supplemented, waived or changed only by an amendment in writing which makes specific reference to this Agreement or the amendment, as the case may be, and which is signed by the Party against whom enforcement of any such amendment, supplement, waiver or modification is sought.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed
as of the day and year first above written.

LIGHTNER:

COVENANT:

LIGHTNER COMMUNICATIONS, LLC

COVENANT COMMUNICATIONS, LLC

BY: 

MATTHEW LIGHTNER
AS ITS MANAGER

BY: _____

JAMES F. LOFTUS, IV
AS ITS MANAGER

JFLIV, LLC

BY: _____

JAMES F. LOFTUS, IV
AS ITS MANAGER

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed
as of the day and year first above written.

LIGHTNER:

COVENANT:

LIGHTNER COMMUNICATIONS, LLC

COVENANT COMMUNICATIONS, LLC

BY: _____
MATTHEW LIGHTNER
AS ITS MANAGER

BY:  _____
JAMES F. LOFTUS, IV
AS ITS MANAGER

JFLIV, LLC

BY:  _____
JAMES F. LOFTUS, IV
AS ITS MANAGER

EXHIBIT "A"

LIGHTNER FCC LICENSES

<u>CLASS</u>	<u>CALL SIGN</u>	<u>FACILITY ID</u>	<u>FILE #</u>	<u>STATION LOCATION</u>	<u>AUXILIARY STATIONS</u>
FX	W282CV	201316	0000185667	State College, PA	None
AM	WPHB	43879	0000187222	Phillipsburg	None

EXHIBIT "B"

LIGHTNER EQUIPMENT, PERSONAL PROPERTY AND ASSUMED CONTRACTS

Equipment & Personal Property

WPHB-AM Transmitter Site inventory (Port Matilda Highway)

Harris Gates 5 AM Transmitter Serial MS109245-0001

200 ft Guyed tower – ASR#1203712

Inovonics 222 AM Broadcast Processor

Inovonics INO-mini FM Receiver

Broadcast Tools WVRC-8 PLUS Remote Control (OK)

SWR FM1R/1 translator antenna. (Used as receive antenna)

Delta TCA-10-EX RF Ammeter Serial 10143

3 phase AC Surge Protector

Antenna Tuning Unit (on wall)

W282CV Transmitter Site (WFGE Site)

Harris THE-1 FM Exciter (Completely refurbished in 2022, like new)

PTEK 1000 Watt RF Amplifier/Transmitter

Middle Atlantic MRK44-36 equipment Rack

Orban 8200 Audio Processor

Bird SentrLine 3111 Harmonic Filter with DIN adapters

SWR FMBBRA/1 FA-1043 FM Antenna with Radome

Assumed Contracts

EXHIBIT "C"

LIGHTNER REAL ESTATE INTERESTS

1880 Port Matilda High, Phillipsburg, PA 16885.

Lightner Real Estate Holdings, LLC owns 100% of the above property.

EXHIBIT "D"

JFL FCC LICENSES

<u>CLASS</u>	<u>CALL SIGN</u>	<u>FACILITY ID</u>	<u>FILE #</u>	<u>STATION LOCATION</u>	<u>AUXILIARY STATIONS</u>
FM	WRSC	64572	0000187133	Bellefonte, PA	WPWH688

EXHIBIT "E"

COVENANT EQUIPMENT, PERSONAL PROPERTY AND ASSUMED CONTRACTS

Equipment and Personal Property

WRSC-FM Transmitter Site inventory

Nautel VS-1 Transmitter

Orban 8200 audio processor (or whatever processor Dusty has)

Bird Wattmeter

Shively Labs 6810-2 Antenna with Radomes (On tower)

2 old Equipment racks

Assumed Contracts

EXHIBIT "F"

COVENANT REAL ESTATE INTERESTS

WRSC-FM Tower Space Lease dated as of January 1, 2023, between Seven Mountains Media, LLC, as Lessor, and Covenant Communications, LLC, as Lessee.

EXHIBIT "G"

PROMISSORY NOTE

\$100,000.00

_____, 2023

LIGHTNER COMMUNICATIONS, LLC ("Maker"), promises to pay to the order of **COVENANT COMMUNICATIONS, LLC** ("Payee"), its successors and assigns, at such place as the Payee may from time to time in writing designate to the Maker, the principal sum of **ONE HUNDRED THOUSAND and No/100 (\$100,000.00) DOLLARS**, due and payable, without interest thereon, in one hundred (100) equal monthly installments of **ONE THOUSAND and No/100 (\$1,000.00) DOLLARS** each, the first of said monthly installment due one month from the date of this Promissory Note, with a like monthly payment due and payable on the same date of each of the ninety-nine succeeding months, until paid in full.

The Maker of this Note shall have the right to prepay without penalty all or any part of the principal indebtedness evidenced by this Note at any time.

Should Maker fail to make any payment when due, and following ten (10) days written notice of such non-payment, then Payee (or any holder of this Note) may declare all principal and any interest due and payable, and the same shall immediately become due and payable.

Maker waives all demands for payment, presentations for payment, notices of intention to accelerate maturity, notice of acceleration of maturity, protest, and notices of protest, to the extent permitted by law.

Should the Payee, or any holder of this Note, declare immediately due and payable the entire indebtedness evidenced hereby, principal and interest, the Maker and each and every present and future party hereto, including endorsers, acceptors, sureties, and guarantors

shall pay all costs of collection, including reasonable attorney's fees, upon the amount due at the time of making the collection if collected through the services of an attorney.

Notwithstanding anything contained herein to the contrary or set forth in the Simultaneous Tax Deferred Exchange Purchase Agreement (the "Agreement") between Maker and Payee dated February ____, 2023, pursuant to which this Note is issued, under no circumstances shall Maker pledge as collateral any interest whatsoever in any of the FCC Licenses of the "Stations" (as defined in the Agreement) as security for the indebtedness evidenced by this Note.

IN WITNESS WHEREOF, the Maker has caused this Promissory Note to be executed this ____ day of _____, 2023.

MAKER:

LIGHTNER COMMUNICATIONS, LLC

BY: _____

Name: MATTHEW LIGHTNER

Title: MANAGER

The within and foregoing indebtedness of LIGHTNER COMMUNICATIONS, LLC, as evidenced by this Promissory Note, and the payment thereof of said indebtedness, is hereby unconditionally guaranteed by the undersigned, this ____ day of _____, 2023.

Name: MATTHEW LIGHTNER