

ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** (this "Agreement") is dated as of October ^{7th} 2016, by and between **BROADWAY MEDIA, LLC** and **BROADWAY MEDIA LS, LLC**, each a Utah limited liability company (collectively, "Seller"), and **FRANDSEN MEDIA COMPANY, LLC**, a Utah limited liability company ("Buyer").

RECITALS

WHEREAS, Seller is the licensee of radio station KAOX(FM), Shelley, Idaho (FCC Facility ID No. 31169) (the "Station") pursuant to authorizations issued by the Federal Communications Commission ("FCC");

WHEREAS, the Station is currently off the air pursuant to special temporary authority granted by the FCC (FCC File No. BLSTA-20160601AAI); and

WHEREAS, Seller desires to sell and Buyer desires to purchase certain of the assets owned or leased by Seller which have been used in the operation of the Station.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises made herein, the parties hereto agree as follows:

AGREEMENT

1. Assets and Liabilities.

a. Subject to the terms and conditions set forth in this Agreement, Seller shall sell, assign and transfer to Buyer, and Buyer shall purchase, assume and accept from Seller, the assets described below (the "Assets");

i. All authorizations issued by the FCC for the construction and operation of the Station (the "FCC Authorizations") and any pending applications relating thereto, as described on Schedule 1 hereto; and

ii. Certain of Seller's equipment that has been used in the operation of the Station (the "Equipment"), as described on Schedule 2 hereto;

iii. All of Seller's right, title and interest in and to the tower lease for the Station (the "Tower Lease"), as described on Schedule 3 hereto.

b. Except for the Assets specifically described in Section 1.a above, no other assets of Seller are to be sold or assigned hereunder to Buyer and all other assets are excluded from this Agreement.

c. Buyer is not hiring any employees of Seller or the Station and Buyer is not assuming any liabilities or obligations of Seller to any of its employees for wages, salaries, accrued sick or vacation pay or under any employee benefit plan or arrangement.

d. Except as specifically provided herein, Buyer shall not assume, and Seller expressly agrees that Buyer shall not assume, any liabilities or obligations of Seller of any nature and Buyer shall not be responsible in any manner to pay, perform or discharge any liabilities or obligations of Seller.

2. **Consideration; Deposit.**

a. Upon the terms and subject to the conditions set forth herein, and in consideration for the sale of the Assets, Buyer shall make the following financial commitments to Seller:

i. Upon execution of this Agreement, Buyer shall pay to Seller a refundable deposit in the amount of Ten Thousand Dollars (\$10,000) (the "Deposit"). At Closing (as defined below), Buyer shall pay to Seller the additional amount of Fifteen Thousand Dollars (\$15,000) (the "Closing Payment"). The Deposit shall be repaid to Buyer upon termination of this Agreement for any reason other than a breach by Buyer pursuant to Section 13.b.

ii. Buyer shall ensure that M. Kent Frandsen shall be financially responsible for any equipment and marketing changes for KNYN(FM), Fort Bridger, Wyoming (FCC Facility ID No.87470), that may be required to implement the rulemaking ordered by the FCC in MB Docket 02-290.

iii. Buyer shall be financially responsible for any equipment and marketing changes for KGNT(FM), Smithfield, Utah (FCC Facility ID No. 38274), that may be required relating to the rulemaking ordered by the FCC in MB Docket 02-290.

iv. Buyer shall ensure that its affiliate, Sun Valley Radio Inc., shall be financially responsible for any equipment and marketing changes for KLZX(FM), Weston, Idaho (FCC Facility ID No.88184), that may be required to implement the rulemaking ordered by the FCC in MB Docket 05-243.

b. The parties agree to prorate rent and FCC regulatory fees relating to the Station as of 11:59 p.m. local time of the day preceding the Closing (as defined below) and to adjust the Closing Payment at Closing to reflect such prorations.

3. **FCC Consent; Assignment Application.** Upon a date no later than five (5) business days after the execution of this Agreement, Buyer and Seller shall execute, file and prosecute an application with the FCC (the "Assignment Application") requesting its consent to the assignment, from Seller to Buyer, of the FCC Authorizations (the "FCC Consent"). Buyer and Seller shall take all reasonable steps to cooperate with each other and with the FCC to secure such FCC Consent without delay, and to promptly consummate this Agreement in full. The FCC filing fees relating to the Assignment Application shall be shared equally by Buyer and Seller.

4. **Closing Date; Closing Place.** The closing (the "Closing") of the transactions contemplated by this Agreement shall occur on a date (the "Closing Date") to be agreed upon by

Buyer and Seller, which shall be after the FCC Consent has been granted and no later than ten (10) days following the date on which the FCC Consent shall have become a Final Order (as hereinafter defined) and the other conditions to Closing set forth in Sections 7 and 8 have either been waived or satisfied. For purposes of this Agreement, the term "Final Order" means action by the FCC consenting to an application which is not reversed, stayed, enjoined, set aside, annulled or suspended, and with respect to which action no timely request for stay, petition for rehearing or appeal is pending, and as to which the time for filing any such request, petition or appeal or reconsideration by the FCC on its own motion has expired. The Closing shall take place remotely by facsimile and/or email, or in such other manner and at such other place as Buyer and Seller may agree in writing.

5. **Seller's Representations and Warranties.** Seller represents and warrants to Buyer as follows:

a. Each Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Utah and Broadway Media, LLC is qualified to do business in the State of Idaho.

b. Seller has full power and authority to sell, transfer, assign, and convey the Assets, and to execute, deliver and perform this Agreement. The execution and delivery of this Agreement and the consummation of the sale of the Assets have been duly and validly approved and authorized by Seller.

c. Seller will transfer the Assets to the Buyer free of all liens, claims or encumbrances on the Closing Date.

d. The FCC Authorizations are validly held by Seller, are in good standing and are in full force and effect.

6. **Buyers Representations and Warranties.** Buyer represents and warrants to Seller as follows:

a. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Utah and Buyer is qualified to do business in the State of Idaho.

b. Buyer has full power and authority under its organizational documents to carry out the provisions of this Agreement. The execution and delivery of this Agreement and the consummation of the purchase of the Assets provided for herein have been duly and validly authorized by Buyer.

7. **Conditions Precedent to Buyer's Obligation to Close.** Buyer shall not be obligated to proceed to Closing unless and until the following conditions have been met:

a. The FCC Consent shall have been issued and shall be effective;

b. The representations and warranties of Seller set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date; and

c. Seller shall have performed and complied with all of the agreements, obligations and conditions required by this Agreement to be performed or complied with by Seller, prior to or as of the Closing Date.

[d. Any required landlord consent to the assignment of the Station's tower lease shall have been obtained.]

8. **Conditions Precedent to Seller's Obligations to Close.** Seller shall not be obligated to proceed to Closing unless and until the following conditions have been met:

a. The FCC Consent shall have been issued and shall be effective;

b. The representations and warranties of Buyer set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date; and

c. Buyer shall have performed and complied with all the agreements, obligations, and conditions required by this Agreement to be performed or complied with by Buyer, prior to or as of the Closing Date.

9. **Seller's Performance at Closing.** At the Closing, Seller shall deliver to Buyer:

a. An Assignment and Assumption of FCC Authorizations, substantially in the form of Exhibit A attached hereto (the "Assignment and Assumption of FCC Authorizations");

b. A Bill of Sale for the Equipment, substantially in the form of Exhibit B attached hereto (the "Bill of Sale");

c. An Assignment and Assumption of the Tower Lease, substantially in the form attached hereto as Exhibit C (the "Tower Lease Assignment"); and

d. Such other assignments, bills of sale and further instruments of conveyance as Buyer may reasonably require in order to effectuate the assignment from Seller to Buyer of the Assets free and clear of all liens, claims and encumbrances.

10. **Buyer's Performance at Closing.** At the Closing, the Buyer shall deliver to Seller:

a. The Closing Payment, as adjusted pursuant to Section 2.c;

b. The Assignment and Assumption of FCC Authorizations; and

- c. The Tower Lease Assignment.

11. **Indemnifications by Seller.** Seller shall indemnify and hold harmless Buyer against and in respect of:

a. Any and all liabilities, obligations, claims and demands arising out of the ownership or operation of the Station prior to the Closing Date, any breach by Seller of this Agreement, or any inaccuracy in or breach of any representation, warranty, or covenant made by Seller herein.

b. Should any claim covered by the foregoing indemnity be asserted against Buyer, Buyer shall notify Seller promptly and give Seller any opportunity to defend the same, and Buyer shall extend reasonable cooperation to Seller in connection with such defense. In the event the Seller fails to defend the same within a reasonable time, Buyer shall be entitled to assume, but need not assume, the defense thereof and Seller shall be liable to repay Buyer for all damages suffered by Buyer and all of its expenses reasonably incurred in connection with such defense, including, but not limited to, reasonable attorney's fees and settlement payments.

12. **Indemnification by Buyer.** Buyer shall indemnify and hold harmless Seller against and in respect of:

a. Any and all liabilities, obligations, claims and demands arising out of the ownership or operation of the Station after the Closing Date, or any breach by Buyer of this Agreement, or any inaccuracy in or breach of any representation, warranty, or covenant made by Buyer herein.

b. Should any claim covered by the foregoing indemnity be asserted against the Seller, Seller shall notify Buyer promptly and give Buyer an opportunity to defend the same, and Seller shall extend reasonable cooperation to Buyer in connection with such defense. In the event Buyer fails to defend the same within a reasonable time, Seller shall be entitled to assume, but need not assume, the defense thereof, and Buyer shall be liable to repay Seller for all damages suffered by Seller and all its expenses reasonably incurred in connection with such defense, including, but not limited to, reasonable attorney's fees and settlement payments.

13. **Termination.** This Agreement may be terminated at any time prior to Closing as follows:

a. by the mutual written consent of Seller and Buyer;

b. by written notice of Seller to Buyer if Buyer: (i) does not satisfy the conditions or perform the obligations to be satisfied or performed by Buyer on or before the Closing Date in any material respect; (ii) breaches in any material respect any of Buyer's representations or warranties; or (iii) defaults in any material respect in the performance of any Buyer's covenants or agreements under this Agreement;

c. by written notice of Buyer to Seller if Seller: (i) does not satisfy the

conditions or perform the obligations to be satisfied or performed by Seller on or before the Closing Date in any material respect; (ii) breaches in any material respect any of Seller's representations or warranties; or (iii) defaults in any material respect in the performance of any of Seller's covenants or agreements under this Agreement;

d. the right to terminate this Agreement under Section 13(b) or (c) hereof shall not be available to any party whose breach of this Agreement has been the cause of, or resulted in, the failure of the Closing to occur. Notwithstanding anything in this Agreement to the contrary, no party that is in material breach of this Agreement shall be entitled to terminate this Agreement except with the written consent of the other party.

14. **Specific Performance.** The parties acknowledge and agree that the parties could be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached and that any non-performance or breach of this Agreement by any party could not be adequately compensated by monetary damages alone and that the parties would not have any adequate remedy at law. Accordingly, in addition to any other right or remedy to which any party may be entitled, at law or in equity (including monetary damages), such party shall be entitled to enforcement of any provision of this Agreement by a decree of specific performance and to temporary, preliminary and permanent injunctive relief to prevent breaches or threatened breaches of any provisions of this Agreement without posting any bond or other undertaking, subject to any necessary consent by the FCC.

15. **Survival of Warranties.** All representations, warranties, and covenants made by the parties in this Agreement shall be deemed made for the purpose of inducing the other party to enter into this Agreement and shall survive the Closing and remain operative in full force and effect for a period of one (1) year.

16. **Notices.** Any notices, requests, demands, or consents required or permitted to be given hereunder shall be in writing (which shall include notice by facsimile transmission) and shall be deemed to have been duly made and received when personally served, or when delivered by Federal Express or a similar overnight courier service, expenses prepaid, as follows:

If to Seller:

Broadway Media, LLC
Attention: Dell Loy Hansen
595 S. Riverwoods Parkway, Suite 400
Logan, Utah 84321
Tel: (801) 961-1101
Fax: (888) 755-2245

If to Buyer:

Frandsen Media Company, LLC
Attn: M. Kent Frandsen

Tel: _____
Fax: _____

17. **Construction.** This Agreement shall be construed and enforced in accordance with the laws of the State of Utah, without regard to its conflict of laws principles.

18. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one Agreement. Electronic or facsimile copies of the signatures hereto shall be treated as original signatures for all purposes.

4820-2401-3113.1

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Execution Date.

SELLER:

BROADWAY MEDIA, LLC

By: 

Its: Manager

BROADWAY MEDIA LS, LLC

By: 

Its: Manager

BUYER:

FRANSEN MEDIA COMPANY, LLC

By: 

Its: COO.

SCHEDULE 1

FCC AUTHORIZATIONS

KAOX(FM), Shelley, Idaho (FIN 31169)

FCC FM Broadcast Station License (File No. BMLH-20150922ACO).

FCC FM Broadcast Station Renewal Authorization (File No. BRH-20130530AHM; Expires October 1, 2021).

FCC Special Temporary Authority (to Remain Silent) (File No. BLSTA-20160601AAI; Expires January 5, 2017).

FCC Studio Transmitter Link WPTP488.



SCHEDULE 2

EQUIPMENT

1. Existing BE FM Transmitter
2. Peripheral Equipment Located at the Tower Site
3. Seller's Ownership Share of the KAOX/KQEO Combiner
4. NextGen License