

## ASSET PURCHASE AND SALE AGREEMENT

This AGREEMENT, dated as of January 16, 2003 is by and between First Broadcasting Kansas City, LLC, a Delaware limited liability company ("**Purchaser**"), and Best Broadcasting, Inc., a Missouri corporation ( "**Seller**").

### PRELIMINARY STATEMENTS

A. Seller owns FM radio station KCSX, 97.3 Mhz, licensed to Lee's Summit, Missouri and its auxiliary facilities (the "**Station**"), including all of the Broadcasting Assets, and is the licensee under the KCSX License.

B. Purchaser (as assignee of First Broadcasting Company, L.P.) and Seller (collectively, the "**Parties**"), have entered into that certain Option Agreement dated as of November 24, 1999, as amended by that certain Amendment dated March 31, 2002 (the "**Option Agreement**") which provides for, among other things, an option (the "**Option**") of Purchaser to purchase the Station, including the Broadcasting Assets.

C. Purchaser has validly exercised the Option.

D. Purchaser desires to obtain from Seller an assignment of the KCSX License and to purchase from Seller the Broadcasting Assets, and Seller desires to assign to Purchaser the KCSX License and to sell to Purchaser the Broadcasting Assets, all in accordance with the terms and conditions set forth herein and subject to the prior consent of the FCC; and

E. Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in Appendix I hereto.

NOW, THEREFORE, in consideration of the covenants contained herein and for other good, valuable and binding consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto intending to be legally bound hereby agree as follows:

### STATEMENT OF AGREEMENT

#### ARTICLE I.

##### Purchase of Broadcasting Assets, Purchase Price and Method of Payment

**1.1 Purchase of Broadcasting Assets.** In accordance with the terms and conditions set forth herein, at Closing: (a) Seller shall assign and deliver to Purchaser, and Purchaser shall accept assignment from Seller of, the KCSX License; and (b) Seller shall sell, assign, transfer, convey and deliver to Purchaser, and Purchaser shall purchase from Seller, the Broadcasting Assets, in each case free and clear of all Encumbrances. The Excluded Assets shall not be included in such sale and assignment. The Closing shall take place on the Closing Date at such place as Purchaser and Seller may agree.

**1.2 Purchase Price.** For and in full consideration of the assignments, conveyances, and transfers of the Broadcasting Assets described herein, the Purchase Price payable by Purchaser shall be Two Million Six Hundred Thousand and No/100 Dollars (\$2,600,000.00) (the “**Purchase Price**”), payable as follows: (i) One Million Dollars (\$1,000,000.00) cash at Closing by wire transfer in immediately available funds payable to the bank account or accounts set forth on Schedule 1.2 as Seller’s account(s); and (ii) the balance of the Purchase Price in a mutually satisfactory promissory note co-made by Purchaser and its parent company, First Broadcasting Investments, L.P., each of whom shall be primary obligors (the “**Purchase Note**”) payable to Seller dated as of the Closing Date. The Purchase Note shall provide for four equal payments of Four Hundred Thousand Dollars (\$400,000.00) each. Each such payment shall be due and payable on January 1 of each year commencing on January 1, 2004. The Purchase Note shall be secured by a security interest in favor of Seller in all of the assets of Stations KRVA-FM and KRVF-FM in accordance with a security agreement in form and substance reasonably satisfactory to Seller (the “**Security Agreement**”) to be entered into by Purchaser, those affiliates of Purchaser that own stations KRVA-FM and KRVF-FM, and Seller at the Closing.

**1.3 Drop-in Channel.** In the event that the FCC shall issue public notice of an auction date for any channel within a sixty-mile radius of [REDACTED], Purchaser shall pay to Seller an additional [REDACTED] in cash (the “**Drop-In Charge**”). Such payment shall be made upon the earlier to occur of: (i) ten (10) days following the issuance of any such public notice by the FCC (provided that Seller shall have satisfactorily demonstrated its commitment by giving written notice or email notice of its intent to bid on a channel within such radius at auction (the “**Auction Notice**”) to Purchaser) or (ii) two years after the Closing Date. The Drop-In Charge shall be in addition to any monies due to Seller pursuant to the Purchase Price.

**1.4 No Liabilities Assumed.** Purchaser shall not and does not assume any Liabilities or obligations of Seller, including without limitation, any successor or transferee liability.

**1.5 Allocation of Purchase Price.** As soon as practicable, but not later than 120 days after the Closing Date, Purchaser and Seller shall agree upon the allocation of the Purchase Price among the Broadcasting Assets and shall set forth such allocation on a statement (the “**Allocation Statement**”). If Purchaser and Seller fail to agree on the allocation of the Purchase Price within 120 days after the Closing Date, then the disagreement shall be resolved as soon as practicable thereafter, but not later than 180 days after the Closing Date, by one of the largest four national accounting firms, which accounting firm shall be jointly selected by Purchaser and Seller. Purchaser and Seller acknowledge that the scope of such accounting firm’s work shall be limited to resolving only those items to which Purchaser and Seller do not agree regarding the allocation of the Purchase Price. The decision of the accounting firm shall be final and binding upon Purchaser and Seller. Purchaser and Seller shall share equally the fees, costs and expenses of the accounting firm selected to resolve any disagreements regarding the Allocation Statement. Purchaser and Seller shall each file all tax returns, and execute such other documents as may be required by any taxing authority, in a manner consistent with the Allocation Statement. Purchaser and Seller shall each prepare Internal Revenue Service Form 8594 pursuant to Section 1060 of the Code relating to the transactions contemplated by this Agreement based on the Allocation Statement, and shall deliver such form to each other. Purchaser and Seller shall each file such form with all relevant taxing authorities.

## ARTICLE II.

### Representations and Warranties of Seller

Seller represents and warrants to Purchaser as follows:

**2.1 Organization and Standing.** Seller: (i) is a corporation duly organized, validly existing and in good standing under the laws of the State of Missouri; (ii) has full power and authority to own the KCSX License and to transact the business in which it is currently engaged and to perform the obligations required to be performed by it hereunder and to consummate the transactions contemplated hereby; and (iii) is duly qualified to do business in every jurisdiction in which the nature of the business conducted by Seller with respect to the Station requires such qualification, except where the failure to so qualify would not materially adversely affect the transactions contemplated hereby.

**2.2 Authorization and Binding Obligations.** The execution, delivery and performance by Seller of this Agreement and the agreements, exhibits and other documents to be executed and delivered by Seller pursuant hereto have been duly and validly authorized and, upon execution thereof, will be duly executed and delivered by Seller, and constitute valid and binding agreements of Seller enforceable in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other laws relating to or affecting creditors' rights generally and the exercise of judicial discretion in accordance with general equitable principles.

### **2.3 No Contravention; Consents.**

**(a) No Contravention.** The execution, delivery and performance of this Agreement and the other documents to be executed in connection herewith, the consummation of the transactions contemplated hereby and thereby and the compliance with the provisions hereof and thereof by Seller do not and will not, after the giving of notice, or the lapse of time, or otherwise: (i) conflict with or violate any provisions of the charter documents or bylaws of Seller; (ii) result in the breach of, constitute a default under, conflict with or result in the termination or alteration of, the provisions of any agreement or other instrument to which Seller is a party or by which the property of Seller is bound or affected, or result in the creation of any Encumbrance upon any of the Broadcasting Assets; or (iii) violate or conflict with any material laws, regulations, orders, writs, injunctions, decrees or judgments, including the Communications Act, applicable to Seller or any of the Broadcasting Assets.

**(b) Consents.** Except as set forth in Schedule 2.3(b), no material consent, waiver, authorization or approval from, or filing of any notice or report with, any Governmental Authority or other Person is necessary in connection with the execution, delivery or performance by Seller of this Agreement or any of the documents or transactions contemplated hereby.

**2.4 Title.** Seller is now and at Closing will be the authorized legal holder of the KCSX License.

**2.5 Licenses and Authorizations.**

(a) **FCC License.** Schedule 2.5 hereto contains a true and complete list of those FCC authorizations comprising the KCSX License and copies of the KCSX License. These authorizations constitute all the authorizations required for or used in the operation of the Station as now operated.

(b) **Authorizations.** The KCSX License is valid and in full force and effect, and has been complied with in all material respects and no investigation, notice of investigation, violation, order, complaint, action or other proceeding is pending or, to the knowledge of Seller, threatened before the FCC or any other Governmental Authority to vacate, revoke, refuse to renew or modify the KCSX License or which could in any manner threaten or adversely affect the KCSX License. Seller has no reason to believe that the KCSX License will not be renewed in the ordinary course.

**2.6 Litigation; Violations.** Except for administrative rulemakings or other proceedings of general applicability to the broadcast industry, there is no civil, criminal or administrative action, suit, demand, claim, hearing, litigation, action, proceeding or investigation of any nature pending or, to the best of Seller's knowledge, threatened against Seller or the KCSX License or affecting the same; and no writ, injunction, judgment, award, order or decree has been rendered against or, to the best of Seller's knowledge, affecting Seller or the KCSX License.

**2.7 Reports.** All returns, notices, reports, statements, regulatory fees or other filings currently required to be filed by Seller with the FCC with respect to the KCSX License, and all material returns, notices, reports, statements or other filings currently required to be filed by Seller with any other federal, state, or local governmental agency with respect to the KCSX License, have been timely filed and complied with and shall continue to be timely filed and be in compliance on a current basis until the Closing Date. All such reports, returns and statements are (or will be, in the case of future reports) complete and correct as filed in all material respects.

**2.8 Taxes.** Seller has filed or caused to be filed all returns, declarations of estimated taxes, reports, statements and information statements ("***Tax Returns***") required to be filed with any taxing authority prior to the date hereof with respect to the KCSX License and the Broadcasting Assets, except those Tax Returns for which requests for extensions have been timely filed, and all such Tax Returns are correct and complete in all material respects. Seller has paid or caused to be paid all Taxes due and payable. No federal, state, local or foreign audits or other administrative or court proceedings are presently pending with regard to any Tax Returns or Taxes of Seller and Seller has not received notice from any governmental authority of the expected commencement of such proceedings. There are no liens for Taxes on the KCSX License of Seller. Seller does not have any obligation to pay Taxes of any other Person or to pay Taxes with respect to transactions relating to any other Person, or to indemnify any other Person with respect to Taxes. Seller is not a "***foreign person***" within the meaning of Section 1445(b)(2) of the Code.

## ARTICLE III.

### Representations and Warranties of Purchaser

Purchaser represents, warrants and covenants to Seller that:

**3.1 Organization and Standing.** Purchaser: (i) is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware; (ii) has full power and authority to own its properties and to transact the business in which it is currently engaged and to perform the obligations required to be performed by it hereunder and to consummate the transactions contemplated hereby; and (iii) is duly qualified to do business and in good standing as a foreign business entity in every jurisdiction in which the nature of the business to be conducted by it requires such qualification, except where the failure to so qualify would not materially adversely affect the transactions contemplated hereby.

**3.2 Authorization and Binding Obligations.** The execution, delivery and performance of this Agreement and the agreements, exhibits and other documents to be executed and delivered by Purchaser pursuant hereto have been duly and validly authorized and, upon execution thereof, will be duly executed and delivered by Purchaser and constitute valid and binding agreements of Purchaser enforceable in accordance with the terms except as such enforceability may be limited by bankruptcy, insolvency, moratorium or other laws relating to or affecting creditors' rights generally and the exercise of judicial discretion in accordance with general equitable principles.

**3.3 No Contravention.** The execution, delivery and performance of this Agreement and the other documents to be executed in connection herewith, the consummation of the transactions contemplated hereby and thereby and the compliance with the provisions hereof and thereof by Purchaser do not and will not, after the giving of notice, or the lapse of time, or otherwise: (i) conflict with or violate any provisions of the limited partnership agreement of Purchaser; (ii) result in the breach of, conflict with, or constitute a default under, the provisions of any agreement or other instrument to which Purchaser is a party or by which the property of Purchaser is bound or affected; or (iii) violate or conflict with any laws, regulations, orders, writs, decrees, injunctions or judgments applicable to Purchaser, or require any Shareholder or partner consent or consent under Applicable Law.

**3.4 Litigation.** Except for administrative rulemaking or other proceedings of general applicability to the broadcast industry, there is no civil, criminal or administrative action, suit, demand, claim, litigation, action, proceeding or investigation of any nature pending or, to the best of Purchaser's knowledge, threatened against or affecting Purchaser that would adversely affect its ability to consummate the transactions contemplated in this Agreement.

**3.5 Qualification.** Purchaser knows of no reason under current law why it is not qualified under the FCC's rules and policies to become the Licensee of the Station and to consummate the transactions contemplated by this Agreement.

## ARTICLE IV.

### Access and Information

After the execution of this Agreement, Seller shall give Purchaser and its counsel, accountants, engineers and other authorized representatives reasonable access, during normal business hours throughout the period prior to the Closing Date, to all of the Broadcasting Assets to be acquired hereunder and shall furnish Purchaser, its counsel, accountants, engineers and other authorized representatives during such period with all information concerning the affairs of Seller (to the extent relevant to the transactions contemplated hereby) and Seller as they may reasonably request in order to enable Purchaser to make such examinations and investigations thereof as it shall deem necessary, and Seller will make appropriate officers, employees, attorneys, agents and accountants available to discuss with Purchaser and its representatives such aspects of the business and operations of Seller and Seller (to the extent relevant to the transactions contemplated hereby) as Purchaser may reasonably require.

## ARTICLE V.

### Conduct of Business to Closing

Seller covenants and agrees that pending the Closing, except with the prior written consent of Purchaser, Seller shall enter into no agreements regarding the Station other than the Time Brokerage Agreement and the Equipment Lease each between Seller and Purchaser of even date herewith.

## ARTICLE VI.

### Conditions Precedent to the Obligations of the Parties

**6.1 Conditions To Seller's Obligation To Close.** The obligations of Seller to sell, transfer, convey and deliver the Broadcasting Assets and to proceed with the Closing are subject to the satisfaction at or prior to the Closing of each of the following conditions (unless waived in writing by Seller, with the exception of Section 6.1(a), which cannot be waived):

(a) **FCC Consent.** The FCC shall have consented to the assignment of the KCSX License from Seller to Purchaser.

(b) **Consideration; Security Agreement.** Purchaser shall have delivered to Seller, in accordance with Section 1.2 hereof, the consideration specified therein including the Purchase Note and Purchaser shall have delivered the Security Agreement duly executed by Purchaser and those affiliates of Purchaser that own Stations KRVA-FM and KRVF-FM together with such financing statements and other documents or instruments reasonably requested by Seller to perfect the security interest granted to Seller pursuant to the Security Agreement.

(c) **Accuracy of Representations and Warranties.** The representations and warranties made herein by Purchaser shall be true and correct in all material respects when made

and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date.

**(d) Compliance with Agreement.** All of the terms, agreements, covenants and conditions of this Agreement to be performed or complied with by the Purchaser on or prior to the Closing shall have been duly performed or complied with.

**(e) No Obstructive Proceeding.**

**(i) No Litigation.** No action, suit, investigation, or proceeding shall have been instituted or be pending against any of the parties to this Agreement or any of their Affiliates before any Governmental Authority to restrain or prohibit, or to obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated hereby which may reasonably be expected to result in a preliminary or permanent injunction against consummating the transactions contemplated hereby or, if the transactions contemplated hereby were consummated, an order to nullify or render ineffective this Agreement or such transactions.

**(ii) No Governmental Intervention.** Neither of the parties to this Agreement shall have received written notice from any Governmental Authority of: (i) its intention to institute any action or proceeding to restrain or enjoin or nullify or render ineffective this Agreement or the transactions contemplated hereby if consummated, or commence any investigation into the consummation of this Agreement and the transactions contemplated hereby; or (ii) the actual commencement of such an investigation.

**(iii) No Order.** No order, decree or judgment of any Governmental Authority shall be subsisting against any of the parties which would render it unlawful or materially restrain or limit Purchaser's ability, as of the Closing Date, to effect the transactions contemplated hereunder in accordance with the terms hereof or to operate the Station as presently anticipated to be operated.

**(f) Officers' Certificate.** Purchaser shall have delivered a certificate signed by an authorized officer of Purchaser, to the effect that the conditions set forth in Sections 6.1 (c), (d) and (e) have been satisfied.

**6.2 Conditions To Purchaser's Obligation To Close.** The obligations of Purchaser to purchase the Broadcasting Assets and to proceed with the Closing are subject to the satisfaction at or prior to the Closing of each of the following conditions (unless waived in writing by Purchaser, with the exception of Section 6.2(a), which cannot be waived):

**(a) FCC Consent.** The FCC shall have consented to the assignment of the KCSX License from Seller to Purchaser.

**(b) Accuracy of Representations and Warranties.** The representations and warranties made herein by Seller shall be true and correct in all material respects when made and on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date.

(c) **Compliance with Agreement.** All of the terms, agreements, covenants and conditions of this Agreement to be performed or complied with by Seller on or prior to the Closing shall have been duly performed or complied with.

(d) **No Obstructive Proceeding.**

(i) **No Litigation.** No action, suit, investigation, or proceeding shall have been instituted or be pending against any of the parties to this Agreement or any of their Affiliates before any Governmental Authority to restrain or prohibit, or to obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated hereby which may reasonably be expected to result in a preliminary or permanent injunction against consummating the transactions contemplated hereby or, if the transactions contemplated hereby were consummated, an order to nullify or render ineffective this Agreement or such transactions.

(ii) **No Governmental Intervention.** Neither of the parties to this Agreement shall have received written notice from any Governmental Authority of: (i) its intention to institute any action or proceeding to restrain or enjoin or nullify or render ineffective this Agreement or the transactions contemplated hereby if consummated, or commence any investigation into the consummation of this Agreement and the transactions contemplated hereby; or (ii) the actual commencement of such an investigation.

(iii) **No Order.** No order, decree or judgment of any Governmental Authority shall be subsisting against any of the parties which would render it unlawful or materially restrain or limit Purchaser's ability, as of the Closing Date, to effect the transactions contemplated hereunder in accordance with the terms hereof or to operate Seller as presently being conducted.

(e) **Officers' Certificate.** Seller shall have delivered a certificate signed by an authorized officer of Seller, to the effect that the conditions set forth in Sections 6.2(b), (c) and (d) have been satisfied.

(f) **Opinions of Counsel.** Purchaser shall have received the written opinion of corporate counsel and FCC counsel for Seller, dated the Closing Date, in form and substance reasonably satisfactory to Purchaser.

## ARTICLE VII.

### Instruments of Conveyance and Transfer

**7.1 Instruments of Conveyance and Transfer of Personal Property.** At the Closing, to effect the transfers, conveyances and assignments from Seller to Purchaser or its assignee as herein provided, Seller shall deliver to Purchaser the following, all in form reasonably satisfactory to counsel for Purchaser, and dated the Closing Date:

(a) **Bills of Sale.** Bills of sale for all tangible personal property included in the Broadcasting Assets;

(b) **Assignments of Licenses.** Assignments of the KCSX License and all other authorizations for Seller included in the Broadcasting Assets;

(c) **Other Documents.** Such other instruments or documents as Purchaser may reasonably request in connection with the transfer to it of the personal property to be transferred, not inconsistent with the obligations of Seller under this Agreement.

## ARTICLE VIII.

### Risk of Loss; Insurance

The risk of any loss, damage or impairment, confiscation or condemnation of the Broadcasting Assets or any part thereof from fire, explosion, disaster, flood, accident, riot, insurrection, war, act of God or other similar occurrence shall be borne by Seller at all times prior to the Closing. In any such event, the proceeds of, or any claim for any loss payable under, any insurance policy, claim, judgment or award with respect thereto (collectively, the “*Proceeds*”) shall be paid to Seller, which shall repair, replace or restore any such Broadcasting Assets as soon as possible after its loss, impairment, confiscation or condemnation.

## ARTICLE IX.

### Event of Loss

In the event that any loss or damage referred to in Article VIII (which individually or in the aggregate could reasonably be expected to have a materially adverse effect on the Broadcasting Assets) shall not be restored, replaced or repaired by the Closing Date, Purchaser shall (to the extent all the other representations, warranties, covenants and conditions hereof shall have been satisfied) proceed with the Closing, but the Purchase Price shall be reduced by Ten Thousand Dollars (\$10,000.00).

## ARTICLE X.

### Books and Records

Purchaser shall be entitled to all records, including but not limited to, the Public File, technical information and engineering data, FCC logs, asset history files, and other files,

documents and correspondence of Seller relating to the Broadcasting Assets prior to the Closing Date as shall be reasonably necessary to the maintenance of the Broadcasting Assets after the Closing Date; provided, however, that for a period of three (3) years Purchaser shall retain and make available for inspection by Seller and its representatives for any reasonable purpose all such records, and Purchaser shall not, during such three-year period, dispose of, alter or destroy any such materials without giving ninety (90) days' prior written notice to Seller so that Seller may, at its expense, examine, make copies of, or take possession of such materials. As soon as practicable after the Closing, but in no event later than three (3) days after the Closing, Seller shall deliver to Purchaser in accordance with Purchaser's instructions all documents relating to the Broadcasting Assets that are in the possession of Seller, or any of its representatives, agents or Affiliates.

## ARTICLE XI.

### Possession and Control of the Station

Notwithstanding any other provision of this Agreement, between the date of this Agreement and the Closing Date, Purchaser shall not directly or indirectly control, supervise or direct, or attempt to control, supervise or direct, the operations of the Station, and the conduct of such business operations, including control and supervision of programming, shall be the sole responsibility of, and in the complete discretion and independent and separate control of, Seller. Neither title to, nor right to possession of, the Broadcasting Assets shall pass to Purchaser until the Closing Date.

## ARTICLE XII.

### Brokers

Purchaser represents and warrants to Seller that it has not engaged any broker, finder or consultant in connection with this Agreement and the transactions contemplated herein or any aspect thereof. Seller represents and warrants to Purchaser that Seller has not engaged any broker, finder or consultant in connection with this Agreement and the transactions contemplated herein. Seller and Purchaser agree to indemnify and hold the other harmless from any and all loss, cost, Liability, damage and expense (including legal and other expenses incident thereto) in respect of any claim for a broker, finder or consultant's fee or commission or similar payment by virtue of any alleged agreements, arrangements or understandings with the indemnifying party. Notwithstanding any other provision of this Agreement, the representations, warranties and covenants contained in this Article XII shall survive the Closing Date for two (2) years.

## ARTICLE XIII.

### Survival; Indemnification

**13.1 Survival.** The several representations and warranties of the parties contained in this Agreement (or in any document delivered in connection herewith) shall be deemed to have been made on the date of this Agreement and on the Closing Date, shall survive the Closing Date and shall remain operative and in full force and effect for a period of twelve (12) months after the Closing Date except with respect to Taxes which shall survive for the applicable statute of

limitations period. All representations and warranties shall survive as provided herein and shall be unaffected by (and shall not be deemed waived by) any investigation, audit, appraisal, or inspection at any time made by or on behalf of any party hereto.

**13.2 Seller's Indemnification - Breach.** After the Closing Date, Seller agrees to indemnify, defend and hold Purchaser harmless from and against any and all loss, cost, Liability, damage and expenses (including reasonable legal and other expenses incident thereto) resulting from breach of Seller's representations, warranties, covenants and agreements contained in this Agreement; provided, however, that any claim for a breach of a representation or warranty shall have been made prior to the expiration date thereof, if any, set forth in Section 13.1 above.

**13.3 Seller's Indemnification - Liabilities.** Seller agrees to indemnify, defend and hold Purchaser harmless from and against any and all Liabilities, known or unknown, actions, suits, proceedings, demands, assessments, judgments, costs and expenses (including reasonable legal and other expenses incident thereto), resulting from causes of action or claims of any kind (excluding any and all claims and liabilities arising or resulting from a breach of any of Purchaser's agreements or warranties or from an inaccuracy in any of Purchaser's representations hereunder) arising with respect to the KCSX License, where the events giving rise to such actions or claims arose, on or prior to the Closing. Any Tax resulting from Seller's sale of the Broadcasting Assets shall be deemed to be a Tax solely attributable to a pre-Closing period and payment of such Tax shall be the sole responsibility of Seller or any of its Affiliates.

**13.4 Purchaser's Indemnification.** Purchaser agrees to indemnify, defend and hold Seller harmless from and after the Closing Date from and against:

(a) **Breach.** Any and all loss, cost, Liability, damage and expense (including reasonable legal and other expenses incident thereto) resulting from Purchaser's breach of any of its representations, warranties, covenants and agreements under this Agreement, provided, however, that any such claim, for breach of a representation or warranty shall have been made prior to the expiration date thereof, if any, set forth in Section 14.1 above; and

(b) **Liabilities.** Any and all Liabilities, known or unknown, actions, suits, proceedings, demands, assessments, judgments, costs, and expenses (including reasonable legal and other expenses incident thereto), resulting from causes of action or claims of any kind arising with respect to the KCSX License after the Closing Date (excluding any and all such Liabilities arising or resulting from a breach of Seller's agreements or warranties or an inaccuracy of Seller's representations hereunder) or from actions of Purchaser before and after the Closing Date or with the negotiation and performance of agreements, if any, with owners of stations affected by the change in class, channel and community license of the Station.

**13.5 Indemnification Basket.** Notwithstanding anything to the contrary in Section 13.2 or 13.3 above, neither Seller nor Purchaser shall be obligated to make any payments under Section 13.2 or Section 13.4 as the case may be with respect to a breach of a representation or warranty unless the aggregate amounts of all claims made thereunder equals or exceeds \$25,000.00 and in such event payments shall be made from dollar one and shall not exceed in the aggregate \$3,000,000; provided, however, that nothing in this Section 13.5 shall in any way limit or affect Seller's rights under the Purchase Note or otherwise to receive payment of the full

Purchase Price hereunder. Purchaser shall have no rights to offset any amounts due to Purchaser from Seller under this Article XIII against any amounts due Seller under the Purchase Note or otherwise to cease payment upon the Purchase Note because of any amount due to Purchaser under this Article XIII.

**13.6 Taxes.** Seller, on the one hand, and Purchaser, on the other hand, agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance (including access to books and records) relating to the Broadcasting Assets as is reasonably necessary for the preparation of any return of Taxes, claim for refund or audit, and the prosecution or defense of any claim, suit or proceeding relating to any proposed adjustment.

#### ARTICLE XIV.

##### Default; Termination

**14.1 Default and Cure.** If either party believes the other party to be in material default hereunder, the non-defaulting party may provide the defaulting party with notice specifying in reasonable detail the nature of such default. If such default cannot be cured, or has not been cured by the earlier of (i) the Closing Date, or (ii) within thirty (30) days after delivery of such notice, then the party giving such notice may (x) terminate this Agreement or (y) extend the Closing Date by ten (10) days (but no such extension shall constitute a waiver of the nondefaulting party's right to terminate as a result of such default). Such rights are contingent upon the giving of such notice.

##### 14.2 Termination

(a) **Mutual Consent.** This Agreement may be terminated by mutual written consent of Seller and Purchaser.

(b) **Seller.** This Agreement may be terminated on notice by Seller (i) pursuant to Section 14.1 hereof, or (ii) if both the Purchaser and Seller agree that any condition set forth in Section 6.1 cannot be met and has not been waived, or (iii) if, through no fault of Seller, the Closing shall not have occurred by the date which is one year from the date of this Agreement.

(c) **Purchaser.** This Agreement may be terminated on notice by Purchaser (i) pursuant to Section 14.1 hereof, or (ii) if both the Purchaser and Seller agree that any condition set forth in Section 6.2 cannot be met and has not been waived.

#### ARTICLE XV.

##### Confidentiality

**15.1 Confidentiality.** Any nonpublic information that either party ("Recipient Party") may obtain from the other ("Disclosing Party") in connection with this Agreement with respect to the Disclosing Party, the Station or the Broadcasting Assets including, but not limited to,

information regarding the organization, personnel, business activities, customers, policies, assets, finances, costs, sales, revenues, rights, obligations, liabilities and strategies of Disclosing Party (collectively, ***“Information”***) shall be confidential and Recipient Party at all times prior to and for one (1) year after the Closing shall not disclose any such Information to any third party or use such Information to the detriment of Disclosing Party, except: (i) for disclosure to the directors, officers, partners, shareholders, managers, members, employees and representatives of the Recipient Party and representatives of its advisers and lenders whose knowledge thereof is necessary in order to facilitate the consummation of the transactions contemplated hereby, provided that any such person shall agree to maintain confidential any such information; (ii) as reasonably necessary to the performance of this Agreement; (iii) as authorized in writing by Disclosing Party; or (iv) to the extent that disclosure is required by law or the order of any governmental authority under color of law; provided, that, prior to disclosing any Information pursuant to this clause (iv), Recipient Party shall have given reasonable prior written notice thereof to Disclosing Party and provided Disclosing Party with the opportunity to contest such disclosure at its expense. Notwithstanding the foregoing, Information that (i) is contained in a printed publication available to the general public; (ii) is or becomes publicly known through no wrongful act or omission of, or violation of the terms hereof by, Recipient Party or any third party; or (iii) becomes known to Recipient Party from a source which did not wrongfully acquire such Information and has no confidentiality obligation with respect to such Information at the time of receipt of such Information, shall not constitute a part of the Information for purposes of this Section 15.1. In the event this Agreement is terminated prior to the Closing, such Information shall be returned on a timely basis to Disclosing Party, together with any and all copies made thereof, upon request for such return by Disclosing Party (except for documents submitted to a governmental agency with the consent of Disclosing Party or upon subpoena and which cannot be retrieved with reasonable effort).

**15.2 Violation of Provisions.** Each party hereby acknowledges that the damages the other would sustain in the event of any violation of the provisions of this Article XV are difficult or impossible to ascertain. Accordingly, each party hereby agrees that the other shall be entitled, in addition to any other remedy or damages available to it in the event of any such violation, to injunctive relief to restrain such violation.

## ARTICLE XVI.

### Miscellaneous

**16.1 Costs, Expenses, Etc.** Other than as provided herein, each party will be responsible for and bear all of its own costs and expenses (including any broker's or finder's fees and the expenses of its representatives) incurred at any time in connection with pursuing or consummating the transactions contemplated hereby. Notwithstanding the foregoing, Purchaser will reimburse Seller for its reasonable and customary out-of-pocket legal expenses.

**16.2 Further Assurances.** Each party shall, from time to time, upon the request of another party, execute, acknowledge and deliver to the other party such other documents or instruments, and take any and all actions as are reasonably necessary for the implementation and consummation of the transactions contemplated by this Agreement.

**16.3 Notice of Proceedings.** Purchaser or Seller, as the case may be, will promptly and in any case within five (5) business days notify the other in writing upon becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the transactions contemplated hereunder, or upon receiving any notice from any governmental department, court, agency or commission of its intention to institute an investigation into, or institute a suit or proceeding to restrain or enjoin the consummation of this Agreement or such transactions, or to nullify or render ineffective this Agreement or such transactions if consummated.

**16.4 Notices.** Any notice, request, demand or consent required or permitted to be given under this Agreement shall be in writing (including telexes, telecopies, facsimile transmissions and similar writings) and shall be effective when transmitted and confirmation of receipt is obtained for telexes, telecopies, facsimile transmissions and similar writings; when delivered personally; one (1) business day after sent by recognized overnight courier; and five (5) days after sent by mail, first class, postage prepaid, registered mail, return receipt requested; in each case to the following address or telephone number, as applicable:

If to Seller:	Best Broadcasting, Inc. UPS/Fed Ex address: 408 West Reed Moberly, MO 65270 USPS address: P.O. Box 219 Moberly, MO 65270 Attn: Phillip A. Chirillo, President Telephone: (660) 263-0307 Facsimile: *(660) 263-0441 <small>* To ensure confidentiality, call prior to faxing.</small>
with copies to:	Best Broadcasting, Inc. 107 S. Main Street Brookfield, MO 64628-2101 Attn: Dale Palmer, Vice President & General Manager Telephone: (660)258-3383 Facsimile: (660) 258-7307
with copies to:	John R. Wilner Bryan Cave LLP 700 13th Street, NW, Suite 700 Washington, DC 20005-3960 Telephone: (202) 508-6041 Facsimile: (202) 508-6200

If to Purchaser to:

First Broadcasting Kansas City, LLC  
750 North St. Paul  
Tenth Floor  
Dallas, Texas 75201  
Attention: President  
Telephone: (214) 855-0002  
Telecopier: (214) 855-5145

or at such other address as either party shall specify by notice to the other.

**16.5 Headings and Entire Agreement.** The section and subsection headings do not constitute any part of this Agreement and are inserted herein for convenience of reference only. This Agreement embodies the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, understandings, representations and warranties, and courses of conduct and dealing between the parties on the subject matter hereof. It may not be amended, modified or changed orally, but only in writing signed by the party against whom enforcement of any amendment, modification, change, waiver, extension or discharge is sought.

**16.6 Waiver.** No waiver of a breach of, or default under, any provision of this Agreement shall be deemed a waiver of such provision or of any subsequent breach or default of the same or similar nature or of any other provision or condition of this Agreement.

**16.7 Binding Effect and Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and permitted assigns. Neither this Agreement nor any obligation hereunder shall be assignable except with the prior written consent of the other party which may be withheld for any reason; provided, however, that Purchaser or Seller may assign this Agreement, in whole or in part, to any subsidiary or affiliate provided that in the case of Seller, such subsidiary or affiliate actually owns all right and title to the Broadcasting Assets. No such assignment shall relieve either party of its respective obligations under this Agreement.

**16.8 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but which taken together shall constitute one agreement.

**16.9 Exhibits, Schedules and Attachments.** The Exhibits and Schedules attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall control.

**16.10 Rights Cumulative.** Except as set forth herein, all rights, powers and remedies herein given to Purchaser and Seller are cumulative and not alternative, and are in addition to all statutes or rules of law.

**16.11 Governing Law.** This Agreement, and the rights and obligations of Purchaser and Seller hereunder, shall be governed by and construed in accordance with the laws of the State of Missouri applicable to contracts made and to be performed therein.

**16.12 Severability.** If any provision of this Agreement or the application thereof to any Person or circumstance, is held invalid, such invalidity shall not affect any other provision which can be given effect without the invalid provision or application, and to this end the provisions hereof shall be severable. Any such invalid provision shall be given effect to the extent possible or shall be reformed so as to make it enforceable and valid while preserving the original intent of the Parties.

**16.13 Third Party Rights.** Neither Seller nor Purchaser assumes any duty hereunder to any other Person or entity, and this Agreement shall operate exclusively for the benefit of the parties hereto and their respective affiliated corporations and not for the benefit of any other Person or entity.

**16.14 Time of Essence.** Time is of the essence in the performance of this Agreement.

**16.15 Press Releases.** Except as and to the extent required by law, without the prior written consent of the other party, neither party will, and each will direct its representatives not to make, directly or indirectly, any public comment, statement, or communication with respect to, or otherwise to disclose or to permit the disclosure of the existence of this Option Agreement or the Purchase Agreement, a transaction between the parties, or any of the terms, conditions or other aspects of the transaction, without the written consent of the other party. If a party is required by law to make any such disclosure, it must first provide to the other party the content of the proposed disclosure, the reasons that such disclosure is required by law, and the time and place that the disclosure will be made. Except as otherwise required by law, each party shall, prior to its issuance of any press release relating to the transactions contemplated by this Option Agreement, submit to the other party such press release and obtain the approval thereof, which approval shall not be unreasonably withheld.

**16.16 Specific Performance.** Seller hereby agrees that Purchaser shall be entitled, in addition to any other remedies or damages available to Purchaser in the event of any breach of this Agreement by Seller, to specific performance of the obligations of Seller under this Agreement.

**16.17 Purchaser Confidentiality.** Purchaser agrees with respect to all technical and commercial and other information relating to Seller, Seller or the Broadcasting Assets that is or has been furnished or disclosed to Purchaser, its officers, directors, agents and consultants on, after or before the date hereof, including, but not limited to, information regarding the organization, personnel, business activities, customers, policies, assets, finances, costs, sales, revenues, rights, obligations, liabilities and strategies of Seller or Seller ("**Information**"), that, unless and until the transactions contemplated by this Agreement shall have been consummated: (a) such Information is confidential and/or proprietary to Seller and Seller and entitled to and shall receive treatment as such by Purchaser; (b) Purchaser will, and will require all of its employees, representatives, agents and advisors who have access to such Information, to hold in confidence and not disclose to others nor use (except in respect of the transactions contemplated by this Agreement or as required by law or in a court, administrative, or regulatory proceeding) any such Information; provided, however, that Purchaser shall not have any restrictive obligation with respect to any Information which: (i) is contained in a printed publication available to the general public; (ii) is or becomes publicly known through no wrongful act or omission of, or

violation of the terms hereof by, Purchaser or any third party; or (iii) becomes known to Purchaser from a source which did not wrongfully acquire such Information and has no confidentiality obligation with respect to such Information at the time of receipt of such Information; and (c) all such Information, unless otherwise specified in writing, shall remain the property of Seller, as the case may be, in the event this Agreement is terminated and shall be returned on a timely basis to Seller, together with any and all copies made thereof, upon request for such return by Seller (except for documents submitted to a governmental agency with the consent of Seller or upon subpoena and which cannot be retrieved with reasonable effort).

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed and delivered in its name and on its behalf, all as of the date and year first above written.

**PURCHASER:** FIRST BROADCASTING KANSAS CITY, LLC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SELLER:** BEST BROADCASTING, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## Appendix I

### Defined Terms

**1. Definitions.** As used herein, the following terms shall have the following meanings:

#### **1.1 Defined Terms.**

**“Agreement”** means this Purchase and Sale Agreement, as the same may be amended, supplemented or otherwise modified from time to time.

**“Allocation Statement”** has the meaning set forth in Section 1.5.

**“Broadcasting Assets”** means the KCSX License as well as any other licenses, permits and authorizations issued by any Governmental Authority held and used by or useful to Seller in connection with the business and operations of KCSX, as well as each of the following:

- Harris 5kw Transmitter
- One bay FM Antenna
- Visual Electronics Model 4x1 Standard Audio Console
- Gorman-Redlich Encoder/Decoder
- Realistic FM Receiver
- GLI 1000 Audio Equalizer
- Audio Tex Laboratories Headphone Controller
- Sure Microphone Mixer
- ITC Triple Deck Cart Player
- Spotmaster Record/Play single cart deck
- ATC Single Cart Player with record head attachment
- BE Series 3000 Record/Play single cart deck
- Century 21 Automatic Sequencer for CD Players
- Realistic Stereo Pre-Amp
- Realistic Tape Control Center
- Collins 212H-1 Telephone Remote Amp
- Olivetti 900X Typewriter
- Epson Equity II Computer
- Tandy Keyboard
- Tandy Mouse
- Compaq Color Monitor
- Star NX-15 Dot Matrix Printer
- Seck Model 122 12 Channel Mixing Console
- Acer Brand Computer
- Acer Keyboard

- Acer Mouse
- Packard Bell Color Monitor
- Technics SLPG 450 Compact Disc Player
- Magnavox CDP490-BK33 CD Player
- Phillips CD910P-BK01 CD Player
- Realistic Omni-Directional Microphone
- Table Mic Stand
- Realistic Telephone System (includes 5 phones)
- Wall Cart Rack
- 2 Office Desks
- 2 Office Chairs
- 1 Four-Drawer File Cabinet
- Box of various length cassette tapes
- Large assortment of various length carts with tape
- Assortment of various length reel-to-reel tapes with reels
- Older TM Music Library
- Patch Panel with cords
- Numerous cables & connectors

**“Closing”** means the consummation of the purchase, assignment and sale of the Broadcasting Assets as contemplated hereby.

**“Closing Date”** means a time and business date not later than ten (10) business days after the later to occur of the events specified in Article VI of the Agreement, unless otherwise provided for herein or if Purchaser and Seller mutually agree to a different time and date.

**“Code”** means the Internal Revenue Code of 1986, as amended, and the Treasury regulations thereunder, as in effect from time to time.

**“Communications Act”** means the Communications Act of 1934, as amended, and the rules, regulations and policies of the FCC promulgated thereunder, as in effect from time to time.

**“Excluded Assets”** shall mean the following:

- (a) any property or assets of any kind constituting any part of the KCSX studio;
- (b) any intellectual property or assets of any kind, including the call letters KCSX;
- (c) any cash on hand, notes and accounts receivable or other current assets of any kind;
- (d) any contracts or agreements, except as expressly provided for in this Agreement; and
- (e) any books and records, except as expressly provided for in this Agreement;
- (f) any auxiliary remote pick-up, studio transmitter or satellite licenses.

**“FCC”** means the Federal Communications Commission.

**“Governmental Authority”** means any court or federal, state, municipal or other governmental or quasi-governmental authority, department, commission, board, agency or instrumentality, foreign or domestic, or any employee or agent thereof.

**“KCSX License”** means all licenses, permits and authorizations issued or granted by the FCC for the ownership and operation of KCSX–FM licensed to Lee’s Summit, Missouri and all applications therefor, all of which are listed in Schedule 2.5 hereto, together with any renewals, extensions or modifications thereof and additions thereto between the date hereof and the Closing Date.

**“Liability”** or **“Liabilities”** means all claims, obligations, indebtedness, commitments, whether direct or indirect, absolute, accrued, contingent, or otherwise, or due or to become due, asserted or unasserted, matured or unmatured, including without limitation trade accounts payable, accrued liabilities for payroll and related expenses, obligations for borrowed money or for the deferred purchase price of property or services, obligations secured by any encumbrance on or with respect to any property or assets owned by a Person or acquired by a Person subject thereto (whether or not the obligation secured thereby shall have been assumed), obligations under direct or indirect guarantees, and other obligations (contingent or otherwise) to purchase, to provide funds for payment or otherwise acquire property or to assure a creditor against loss, obligations to reimburse the issuer with respect to letters of credit, liabilities in respect of unfunded accrued vested benefits under any employee benefit plan, capital lease obligations and any other known or unknown obligations or liabilities.

**“Option”** has the meaning set forth in the recitals hereto.

**“Option Agreement”** has the meaning set forth in the recitals hereto.

**“Parties”** has the meaning set forth in the recitals hereto.

**“Person”** shall mean any natural person, corporation, partnership, limited liability company, firm, joint venture, joint-stock company, trust, association, unincorporated entity of any kind, trust, governmental or regulatory body or other entity.

**“Proceeds”** has the meaning set forth in Article VIII.

**“Purchase Price”** has the meaning set forth in Section 1.2.

**“Purchaser”** has the meaning set forth in the preamble hereto.

**“Seller”** has the meaning set forth in the preamble hereto.

**“Station”** has the meaning set forth in the recitals hereto.

**“Tax”** or **“Taxes”** means all federal, state, local, foreign and other taxes, assessments or other governmental charges, including, without limitation, income, estimated income, ad valorem, excise, value-added, gross receipts, business, occupation, franchise, property (real or

personal) or environmental tax or premium, sales, use, transfer, stamp, employment or withholding taxes, registration and licensing fees, and other assessments and similar taxes, including, without limitation, interest, penalties, additions in connection therewith (whether disputed or not), and any liability under Treasury Regulation Section 1.1502-6 (or any comparable provision of foreign, state or local law) or any other tax obligation which Seller has assumed or for which Seller is or was liable.

***“Tax Returns”*** has the meaning set forth in Section 2.8.

**1.2 Other Definition Provisions.** The masculine form of words includes the feminine and the neuter and vice versa, and, unless the context otherwise requires, the singular form of words includes the plural and vice versa. The words “herein,” “hereof,” “hereunder” and other words of similar import when used in this Agreement refer to this Agreement as a whole, and not to any particular section or subsection.

**Schedule 1.2**

**Seller's Account**

Funds should be wired transferred as indicated below

**FIRST STEP:**

[REDACTED]

**SECOND STEP:**

**With credit to:**

[REDACTED]

**With final credit to:**

[REDACTED]

**Schedule 2.3(b)**

**Consents, Waivers, Approvals, Filings, etc.**

1. Application for FCC Consent.

**Schedule 2.5**

**KCSX Licenses, Permits, Authorizations**

**Call Sign/File Number**

**Nature of License/Authorization**

KCSX-FM, Lee's Summit, MO

FCC License