

## **ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT is made and entered into as of this 29th day of December, 2009 (this "Agreement") by and between Sorenson Broadcasting Corpn., a South Dakota corporation ("Seller"), and Riverfront Broadcasting, LLC, a South Dakota limited liability company ("Buyer"), with reference to the following facts:

WHEREAS, Seller owns certain radio broadcast Stations as listed on Exhibit A ("Stations"), pursuant to licenses issued by the Federal Communications Commission (the "FCC"); and

WHEREAS, pursuant to this Agreement, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Stations' Assets (described below) used in connection with the operation of the Stations, on the terms and subject to the conditions set forth herein; and

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements hereinafter set forth, the parties hereto, intending to be legally bound, hereby agree as follows:

### **ARTICLE 1**

#### **PURCHASE OF ASSETS**

1.1. Transfer of Assets. On the Closing Date (as hereinafter defined), subject to the conditions contained herein, Seller shall sell, assign, transfer and convey to Buyer, and Buyer shall purchase from Seller, all of the assets, properties, interests and rights of Seller of whatsoever kind and nature, tangible and intangible, which are used or held for use in connection with the operation of the Stations (collectively, the "Stations' Assets"), including, but not limited to, the following (but excluding the assets specified in Section 1.2 hereof):

(a) All licenses, permits and other authorizations relating to the Stations issued to Seller by the FCC or any other governmental authority on or prior to the Closing Date, together with renewals or modifications thereof (the licenses, permits and authorizations issued by the FCC collectively are referred to herein as the "FCC Licenses"; the FCC Licenses and the licenses, permits and other authorizations issued by any other governmental authority collectively are referred to herein as the "Stations' Licenses");

(b) All equipment, office furniture and fixtures, office materials and supplies, inventory and other tangible personal property, of every kind and description, owned or used by Seller with respect to the Stations on the date hereof, together with any additions thereto made between the date hereof (collectively, the "Tangible Personal Property");

(c) All of Seller's right title and interest in and to each contract, agreement and lease, written or oral, relating to the operation of the Stations, which Buyer agrees to assume in writing pursuant to the terms of Section 2.1 hereof (collectively, the "Contracts");

(d) All of Seller's right, title and interest in and to the call letters as set forth on Exhibit A and all trademarks, trade names, service marks, franchises, copyrights, including registrations and applications for registration of any of them, jingles, logos and slogans used in the conduct of the business and operation of the Stations and either owned by Seller or licensed to Seller on the date hereof, together with any associated goodwill and any additions thereto between the date hereof and the Closing Date (collectively, the "Intellectual Property");

(e) All files, records, and books of account relating to, or which are located at the premises of, the Stations, including, without limitation, programming information and studies, technical information and engineering data, news and advertising studies or consulting reports, marketing and demographic data, sales correspondence, lists of advertisers, promotional

materials, credit and sales reports and filings with the FCC, copies of all written contracts to be assumed hereunder, logs, the public inspection file and all software programs owned by Seller.

(f) All of Seller's right, title and interest in and to the real property, whether owned or leased, identified on Schedule 1.1 attached hereto (the "Real Property").

The Stations Assets shall be transferred to Buyer free and clear of all liens, encumbrances debts, security interests, mortgages, trusts, claims, pledges, conditional sales agreements, charges, covenants, conditions or restrictions of any kind (collectively, "Liens").

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that the Stations' Assets shall not include the following assets along with all right, title and interest therein (collectively, the "Excluded Assets"):

(a) All cash, cash equivalents or similar type investments of Seller, such as certificates of deposit, treasury bills and other marketable securities on hand and/or in banks;

(b) All contracts or agreements to which Seller is a party that (i) have been terminated in accordance herewith, (ii) have expired prior to the Closing Date in the ordinary course of business, or (iii) Buyer has not assumed in writing pursuant to the terms of Section 2.1 hereof;

(c) Seller's corporate seal, minute books, charter documents, corporate stock record books and such other books and records as pertain to the organization, existence or share capitalization of Seller and duplicate copies of such records as are necessary to enable Seller to file its tax returns and reports as well as any other records or materials relating to Seller generally and not involving the Stations' operations;

(d) Contracts of insurance and all insurance proceeds or claims made by Seller relating to property or equipment repaired, replaced or restored by Seller prior to the Closing Date;

(e) Any and all claims made by Seller with respect to transactions prior to the Closing Date and the proceeds thereof, except claims with respect to obligations to be assumed in writing by Buyer pursuant to the terms of Section 2.1 hereof; and

(f) All other rights, interests, tangible or intangible assets of Seller, which are not used in the operation of the Stations.

## ARTICLE 2

### ASSUMPTION OF LIABILITIES, OBLIGATIONS, AND COMMITMENTS

2.1. Assumed Liabilities. From and after the Closing Date, Buyer shall only assume and undertake to pay, satisfy or discharge the liabilities, obligations and commitments of Seller arising out of or accruing under the Stations' Assets or the operation of the Stations from and after the Closing Date (hereinafter the "Assumed Liabilities").

2.2 Retained Liabilities. Except as set forth in Section 2.1, Buyer expressly does not, and shall not assume or be deemed to assume, under this Agreement or otherwise by reason of the transactions contemplated hereby, any debt, liability, obligation, commitment, undertaking, expense or agreement of Seller of any nature whatsoever, whether known or unknown or absolute or contingent. All of such retained debts, liabilities, obligations, commitments, undertakings, expenses and agreements of Seller shall be referred to herein collectively as the "Retained Liabilities."

## ARTICLE 3

### CONSIDERATION

3.1. Purchase Price. The aggregate amount to be paid to Seller for the Assets (the "Purchase Price") shall be Three Million Two Hundred Thousand Dollars (\$3,200,000) to be paid to Seller as follows:

3.1.1. Seller waives the requirement for an earnest money deposit.

3.1.2. At Closing, Three Million Dollars (\$3,000,000) shall be paid to Seller by Buyer by wire transfer of immediately available funds. Seller shall provide wire transfer instructions to Buyer in writing at least two (2) business days prior to the Closing Date.

3.1.3. At Closing, Buyer shall execute and deliver to Seller a promissory note, substantially in the form of Exhibit B (the "Note"), in the principal amount of Two Hundred Thousand Dollars (\$200,000).

3.2. Allocation of Purchase Price. The parties agree that the Purchase Price shall be allocated by a separate agreement as of the date of closing. The parties hereby covenant and agree that they shall each use the allocation determined under this Section 3.2 as an agreed allocation of the consideration paid for the Stations Assets purchased pursuant to this Agreement in accordance with the provisions of Treasury Regulation Section 1.1060-1T, et seq., and shall each use such allocation to complete and file Internal Revenue Service Form 8594, Asset Acquisition Statement Under Section 1060.

3.3 Proration of Income and Expenses/Trade Agreements. The parties acknowledge that on the date of closing the Programming Agreement between Seller and Buyer (the "Programming Agreement") shall terminate and Seller will provide the Buyer with a final request for reimbursement, as set forth in that agreement, within a reasonable time after closing,

which Buyer will pay just as it has in the past. There are no prorations except as provided in the Programming Agreement.

#### ARTICLE 4

##### GOVERNMENTAL CONSENTS

4.1. FCC Consent. Subject to Section 5.1, it is specifically understood and agreed by Buyer and Seller that consummation of the transactions contemplated hereby is expressly conditioned on and is subject to the prior consent and approval of the FCC ("FCC Consent") without the imposition of any conditions on the transfer of the FCC Licenses which would require Buyer to sell any radio Station or which otherwise reasonably is expected to have a material adverse effect on the results of operations of Buyer.

4.2. FCC Application. Within ten (10) business days after execution of this Agreement, the parties shall file with the FCC an application for assignment of the FCC Licenses ("FCC Application") from Seller to Buyer. The FCC Application shall be made by the filing of FCC Form 314. Buyer shall complete and forward to Seller the assignee portion of that form within six (6) business days after the execution of this Agreement, and Seller shall be responsible for completion of the rest of the form and its filing with the FCC. The parties shall thereafter prosecute the FCC Application with all reasonable diligence and otherwise use commercially reasonable efforts to obtain the grant of the FCC Application as expeditiously as practicable (but no party shall have any obligation to satisfy complaints or the FCC by taking any steps which would have a material adverse effect on the result of operations of a party or any affiliated entity). If the FCC Consent imposes any condition on a party hereto, such party shall use commercially reasonable efforts to comply with such condition; provided, however, that no party shall be required hereunder to comply with any condition that would have a

material adverse effect on the results of operations of such party or any affiliated entity. If reconsideration or judicial review is sought with respect to the FCC Consent, the party affected shall vigorously oppose such efforts for reconsideration or judicial review; provided, however, such party shall not be required to take any action which would have a material adverse effect on the results of operations of such party or any affiliated entity.

## ARTICLE 5

### CLOSING

5.1. Closing Date. Except as otherwise mutually agreed upon by Seller and Buyer, the consummation of the transactions contemplated herein (the "Closing") shall occur within ten (10) business days after the FCC Consent shall have become a Final Order (as hereinafter defined) (the "Closing Date"). As used herein, the term "Final Order" means a written action or order issued by the FCC setting forth the FCC Consent and (a) which has not been reversed, stayed, enjoined, set aside, annulled or suspended, and (b) with respect to which (i) no requests have been filed for administrative or judicial review, reconsideration, appeal or stay, and the time for filing any such requests and for the FCC to set aside the action on its own motion (whether upon reconsideration or otherwise) has expired, or (ii) in the event of review, reconsideration or appeal, the time for further review, reconsideration or appeal has expired. Notwithstanding the foregoing, Buyer may elect to proceed with the Closing upon public notice of the grant of FCC Consent but prior to the date on which the FCC Consent shall have become a Final Order upon ten (10) days written notice to Seller. All actions taken at the Closing will be considered as having been taken simultaneously and no such actions will be considered to be completed until all such actions have been completed.

5.2. Closing Place. The Closing shall be held at such place as the parties hereto may

agree.

## ARTICLE 6

### REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer as follows:

6.1 Organization and Qualification. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of South Dakota and has the requisite corporate power to carry on its business as it is now being conducted.

6.2. Authority.

(a) Seller has the corporate power and authority to enter into this Agreement and all other agreements, documents, certificates and instruments delivered or to be delivered hereunder by Seller (this Agreement and such other agreements, documents, certificates and instruments are referred to herein collectively as the "Seller Documents"), to perform its obligations there under, and to consummate the transactions contemplated thereby. The execution and delivery of the Seller Documents by Seller and the consummation by Seller of the transactions contemplated thereby have been, or will be prior to the Closing, as the case may be, duly authorized by all necessary corporate action on the part of Seller. Each of the Seller Documents has been, or at or prior to the Closing will be, as the case may be, duly executed and delivered by Seller and constitutes, or will constitute at the Closing, as the case may be, a valid and binding obligation of Seller, enforceable against Seller in accordance with their respective terms.

(b) The execution and delivery by Seller of the Seller Documents does not or will not, and the consummation of the transactions contemplated thereby will not, (i) conflict with, or result in a violation of, any provision of the Articles of Incorporation or Bylaws of



Seller, (ii) constitute or result in a breach of or default (or an event which with notice or lapse of time, or both, would constitute a default) under, or result in the termination or suspension of, or accelerate the performance required by, or result in a right of termination, cancellation or acceleration of any Contract, (iii) create any Lien upon any of the Stations' Assets, or (iv) constitute, or result in, a violation of any judgment, ruling, order, writ, injunction, decree, statute, law, rule or regulation applicable to Seller or any of its properties or assets.

(c) No consent, approval, order or authorization of, notice to, or registration, declaration of filing with, any governmental entity is necessary in connection with the execution and delivery of the Seller Documents by Seller or the consummation of the transactions contemplated thereby by Seller, except for filing required documents with the FCC.

#### 6.3. Employee and Labor Relations

(a) Seller is not a party to any contract with any labor organization, nor has Seller agreed to recognize any union or other collective bargaining unit, nor has any union or other collective bargaining unit been certified as representing any of Seller's employees. There are no organizational efforts currently being made or threatened by or on behalf of any labor union with respect to employees of Seller. There are no present or threatened work stoppages or labor difficulties relating to the employees of Seller.

(b) Seller has not promised to any employee of the Stations that Buyer will be hiring any such employee or otherwise made any offer of employment to any employee of the Stations on behalf of Buyer.

6.4. Compliance With Law. The Stations' Assets and the operation of the Stations are in compliance in all material respects with all applicable statutes, laws, ordinances, regulations, rules or orders of any foreign, federal, state or local government, governmental

department or agency, including, without limitation, all foreign, federal, state and local energy, public utility, zoning, building code, health, and employee safety.

6.5. Taxes.

(a) There are no pending or, to the best knowledge of Seller, threatened, investigations or claims against Seller for or relating to any liability in respect of taxes and, to the best knowledge of Seller, no facts or circumstances exist which indicate that any such, investigations or claims in respect of taxes may be brought or are under discussion with any governmental authorities.

(b) All Taxes required to be withheld by Seller on or before the date hereof have been withheld and paid when due to the appropriate agency or authority.

(c) For the purposes of this Agreement, "Taxes" and "Tax" shall mean all taxes and any tax, including without limitation, all foreign, federal, state, county and local income, sales, employment, profit, payroll, use, trade, capital, occupation, property, excise, value-added, unitary, withholding, stamp, transfer, registration, recordation and license tax, taxes measured on or imposed by net worth, and other taxes, levies, imposts, duties, deficiencies and assessments, together with all interest, penalties and additions imposed with respect thereto, including any transferee or secondary liability for taxes and any liability for taxes in connection with, attributable to or arising as a result of being a member of any affiliated, consolidated, combined or unitary group.

6.6. No Other Agreements to Sell the Stations. Seller has no legal obligation, absolute or contingent, to any other person or firm to sell the Stations' Assets (whether through a merger, reorganization or sale of stock or otherwise) or to enter into any agreement with respect thereto.

6.7. Disclosure. The representations and warranties of Seller herein or in any document, exhibit, statement, certificate or schedule furnished by or on behalf of Seller to Buyer as required by this Agreement do not contain nor will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary in order to make the statements herein or therein, in light of the circumstances under which they were made, not misleading.

## ARTICLE 7

### REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to Seller as follows:

7.1. Organization, Standing and Power. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of South Dakota and has the requisite power to carry on its business as it is now being conducted.

7.2. Authority.

(a) Buyer has all requisite power and authority to enter into this Agreement and all other agreements, documents, certificates and instruments delivered or to be delivered hereunder by Buyer (the "Buyer Documents"), to perform its obligations there under and to consummate the transactions contemplated thereby. The execution and delivery of the Buyer Documents by Buyer and the consummation by Buyer of the transactions contemplated thereby have been duly authorized by all necessary action on the part of Buyer. Each of the Buyer Documents has been, or will be at the Closing, as the case may be, duly executed and delivered by Buyer and constitutes, or will constitute at the Closing, as the case may be, a valid and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms.

(b) No consent, approval, order or authorization of, notice to, or registration,

declaration or filing with, any governmental entity is necessary in connection with the execution and delivery of any of the Buyer Documents by Buyer or the consummation by Buyer of the transactions contemplated thereby, except filings with the FCC.

7.3. Litigation. There are no claims, actions, suits, litigation, labor disputes, arbitrations, proceedings or investigations pending or, to the best knowledge of Buyer, threatened against Buyer relating to the transactions contemplated by this Agreement.

7.4. Qualification. There are no facts which, under the Communications Act of 1934, as amended, or the existing rules and regulations of the FCC, would disqualify Buyer as an assignee of the FCC Licenses.

7.5. Disclosure. The representations and warranties of Buyer herein or in any document, exhibit, statement, certificate or schedule furnished by or on behalf of Buyer to Seller as required by this Agreement do not contain nor will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary in order to make the statements herein or therein, in light of the circumstances under which they were made, not misleading.

## ARTICLE 8

### COVENANTS

8.1. Operation of Business. Between the date of this Agreement and the Closing Date, Seller shall:

- (a) Continue the Programming Agreement with the Buyer, which calls for the Buyer to Program the Stations.
- (b) Maintain and preserve Seller's rights under the Stations' Licenses.
- (c) Operate the Stations in accordance with the FCC rules and regulations and the Stations' Licenses.

(d) Conduct the Stations' business in the ordinary course consistent with past practices or as required by this Agreement. By way of amplification and not limitation, without the prior written consent of Buyer, which shall not be unreasonably withheld, Seller shall not:

(i) Enter into any agreement, contract, lease or commitment, other than agreements cancelable without penalty prior to the Closing Date;

(ii) Place or allow to be placed on any of the assets or properties relating to the Stations any Lien;

(iii) Sell or otherwise dispose of any of the Stations' Assets except in accordance with Section 1.1;

(iv) Commit any act or omit to do any act which will cause a breach of any agreement, contract, lease or commitment that will have a material adverse impact on the Stations;

(v) Violate any law, statute, rule, governmental regulation or order of any court or governmental or regulatory authority (whether federal, state or local), which violation will have a material adverse impact on the Stations;

(vi) Cause or permit by any act, or failure to act, any of the Stations' Licenses to expire, be surrendered, adversely modified, or otherwise terminated, or the FCC to institute any proceedings for the suspension, revocation or adverse modification of any of the Stations' Licenses, or fail to prosecute with due diligence any pending applications to FCC;

(vii) Fail to timely file and prosecute an application to renew the Stations' Licenses, if the deadline for same should occur prior to the Closing Date, and timely file and prosecute any required extensions of outstanding construction permits or authorizations

which may expire prior to the Closing Date;

(viii) Terminate any contract that Buyer has agreed to assume pursuant to the provisions of Section 2.1 hereof; or

(ix) Increase the salary, benefits or other compensation payable to any Stations' employee, except to the extent consistent with existing practice. Seller shall immediately notify Buyer upon taking any such action.

8.2. Access to Information. Since entering into the Programming Agreement, Buyer has had complete access to all the information concerning the Stations and Seller agrees to provide any additional information that it has to the Buyer so long as the request is reasonable and necessary.

8.3. Notification of Certain Matters.

(a) Seller shall give prompt notice to Buyer, and Buyer shall give prompt notice to Seller, of (i) any material inaccuracy in any representation or warranty made by it or them, as the case may be, herein, or (ii) any material failure of Buyer or Seller to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it or them, as the case may be, under this Agreement; provided, however, that no such notification shall affect the representations or warranties or covenants or agreements of the parties or the conditions to the obligations of the parties hereunder.

(b) Seller shall promptly advise Buyer orally and in writing of any change or event having, or which, insofar as can reasonably be foreseen in the future would have a material adverse effect on the operations or financial condition of the Stations.

8.4. Consents and Approvals. Seller shall use commercially reasonable efforts to obtain any and all consents, transfers, authorizations, or approvals required for the

consummation of the transactions contemplated by this Agreement. Buyer will cooperate with Seller in obtaining, and providing all information necessary to obtain such consents.

8.5. Employees. Seller hereby covenants that all employees of the Stations shall be terminable, without liability to Buyer, on and as of the Closing Date, and that Buyer will have no liability to any present or past employee of the Stations for retirement, pension, bonus, termination, vacation, or other pay, or for hospitalization, major medical, life or other insurance or other employee benefits.

8.6. Control of Stations. The Buyer and Seller shall each continue to perform their respective duties as set forth in the Programming Agreement and Seller shall continue to control the Stations until closing.

## ARTICLE 9

### CONDITIONS

9.1 Conditions Precedent to Obligations of Buyer. The obligations of Buyer to consummate the transaction contemplated by this Agreement are subject to the fulfillment, prior to or at the Closing, of each of the following conditions, except to the extent Buyer shall have waived in writing satisfaction of such condition:

(a) The representations and warranties made by Seller in this Agreement shall be true and correct in all material respects as of the date of this Agreement and on the Closing Date as though such representations and warranties were made on such date.

(b) Seller shall have performed and complied in all material respects with all covenants, agreements, representations, warranties and undertakings required by this Agreement to be performed or complied with by Seller prior to the Closing.

(c) No action, suit or proceeding before any court or any governmental or

regulatory authority shall have been commenced, no investigation by any governmental or regulatory authority shall have been commenced, and no action, suit or proceeding by any governmental or regulatory authority shall have been threatened against any party hereto, seeking to restrain, enjoin, rescind, prevent or change the transactions contemplated hereby or questioning the validity or legality of any of such transactions or seeking damages in connection with any of such transactions.

d) Seller shall have delivered to Buyer all of the documents required by Section 10.1 hereof.

(e) All consents that may be necessary for Buyer to consummate the transactions contemplated hereby shall have been received by it.

(f) The FCC Consent shall have become a Final Order, except if the Closing takes place pursuant to the provisions of Section 5.1 hereof.

(g) Seller shall have obtained and shall have delivered to Buyer all third-party consents, if any are required, to the assignment of the Contracts which consents shall not have as a condition thereof any modifications to the terms thereof or any payment by Buyer to consummate the assignment.

(h) There shall have been no material adverse change since the date of this Agreement in the Stations' Assets.

9.2 Conditions Precedent to Obligations of Seller. The obligations of Seller to consummate the transactions contemplated by this Agreement are subject to the fulfillment, prior to or at the Closing, of each of the following conditions, except to the extent Seller shall have waived in writing satisfaction of such condition:

(a) The representations and warranties made by Buyer in this Agreement



shall be true and correct in all material respects as of the date of this Agreement and on the Closing Date as though such representations and warranties were made on such date.

(b) Buyer shall have performed and complied in all material respects with all covenants, agreements, representations, warranties and undertakings required by this Agreement to be performed or complied with by it prior to the Closing.

(c) No action, suit or proceeding before any court or any governmental or regulatory authority shall have been commenced, no investigation by any governmental or regulatory authority shall have been commenced, and no action, suit or proceeding by any governmental or regulatory authority shall have been threatened against any party hereto, seeking to restrain, enjoin, rescind, prevent or change the transactions contemplated hereby or questioning the validity or legality of any such transactions or seeking damages in connection with any of such transactions.

(d) Buyer shall have delivered to Seller all of the documents required by Section 10.2 hereof.

(e) Buyer shall have reimbursed Seller for all amounts due under the Programming Agreement that has been billed as of the date of closing.

## ARTICLE 10

### CLOSING DELIVERIES

10.1 Seller's Deliveries. At the Closing, Seller shall deliver or cause to be delivered to Buyer the following:

(a) Bill of sale, assignments (including an assignment of the FCC licenses and authorizations), deeds and other good and sufficient instruments of conveyance, transfer and assignment, all in form and substance reasonably satisfactory to counsel for Buyer, as shall be

effective to vest in Buyer or its permitted assignee, good and marketable title in and to the Stations' Assets, except if the Closing takes place pursuant to the provisions of Section 5.1 hereof, Seller shall transfer all right, title and interest of Seller in and to the Stations' Licenses, subject to Buyer's further obligation to obtain the FCC Consent.

(b) Resolutions of the Board of Directors of Seller authorizing the execution, delivery and performance of the Seller Documents by Seller, certified by an officer of Seller.

(c) Originals or copies of all program, operations, transmissions, or maintenance logs and all other records required to be maintained by the FCC with respect to the Stations, including the Stations' public file, shall be left at the Stations and thereby delivered to Buyer.

10.2 Buyer's Deliveries. At the Closing, Buyer shall deliver or cause to be delivered to Seller the following:

(a) The payment required under Section 3.1 hereof.

(b) An executed promissory note in the amount of Two Hundred Thousand Dollars as set forth in Section 3.1 hereof.

(c) Assumptions of the Contracts, including the leases for the Real Property, and such other documents as may be required fully executed by the Buyer.

## ARTICLE 11

### TRANSFER TAXES, FEES AND EXPENSES

11.1. Expenses. Except as set forth in Section 11.2 hereof, each party hereto shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation and preparation of the Agreement and the transactions contemplated thereby.

11.2. Governmental Filing or Grant Fees. Any filing or grant fees imposed by any

governmental authority the consent of which is required to the transactions contemplated hereby shall be borne by the parties equally (50/50).

## ARTICLE 12

### INDEMNIFICATION

12.1. Survival of Representations and Warranties. All representations and warranties made in this Agreement shall survive the Closing for a period of eighteen (18) months from the Closing Date; provided, however, the representations and warranties regarding tax matters shall survive the Closing Date until the expiration of all applicable statutes of limitations. The right of any party to recover Damages (as defined in Section 12.2 hereof) on any claim shall not be affected by the termination of any representations and warranties as set forth above provided that notice of the existence of such claim has been given by the Indemnified Party (as hereinafter defined) to the Indemnifying Party (as hereinafter defined) prior to such termination.

12.2. Indemnification of Buyer by Seller. Seller shall indemnify and hold Buyer and its attorneys, affiliates, representatives, agents, partners, successors or assigns harmless from and against any liability, loss, cost, expense, judgment, order, settlement, obligation, deficiency, claim, suit, proceeding (whether formal or informal), investigation, Lien or other damage, including, without limitation, attorney's fees and expenses, (all of the foregoing items for purposes of this Agreement are referred to as "Damages"), resulting from, arising out of or incurred with respect to:

(a) A breach of any representation, warranty, covenant or agreement of Seller contained herein, subject to notice of a claim being given before the expiration of the applicable period specified in Section 12.1 hereof with respect to the representations or warranties by Seller contained herein;

(b) The Retained Liabilities; or

(c) Any and all claims, liabilities or obligations of any nature, absolute or contingent, relating to the business and operation of the Stations prior to the Closing Date. The term "Damages" as used in this Agreement is not limited to matters asserted by third parties against a party, but includes Damages incurred or sustained by a party in the absence of third-party claims.

12.3 Indemnification of Seller by Buyer. Buyer shall indemnify and hold Seller and its respective attorneys, affiliates, representatives, agents, officers, directors, successors or assigns, harmless from and against any Damages resulting from, arising out of, or incurred with respect to:

(a) A breach of any representation, warranty, covenant or agreement by Buyer contained herein, subject to notice of a claim being given before the expiration of the applicable period specified in Section 12.1 hereof with respect to the representations and warranties made by Buyer herein;

(b) The Assumed Liabilities; or

(c) Any and all claims, liabilities or obligations of any nature, absolute or contingent, relating to the business and operation of the Stations as conducted by Buyer on and after the Closing Date.

12.4 Procedures.

(a) Promptly after the receipt by any party (the "Indemnified Party") of notice of (a) any claim or (b) the commencement of any action or proceeding which may entitle such party to indemnification under this Section, such party shall give the other party (the "Indemnifying Party") written notice of such claim or the commencement of such action or

proceeding and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting from such claim. The failure to give the Indemnifying Party timely notice under this subsection shall not preclude the Indemnified Party from seeking indemnification from the Indemnifying Party unless, and then only to the extent, such failure has materially prejudiced the Indemnifying Party's ability to defend the claim or litigation. If such claim does not arise from the claim of a third party, the Indemnifying Party shall have 30 days after such notice to cure the conditions giving rise to such claim to the Indemnified Party's satisfaction. Failure by the Indemnifying Party to notify an Indemnified Party of its election to defend any such claim or action by a third party within 30 days after notice thereof shall have been given to the Indemnifying Party shall be deemed a waiver by the Indemnifying Party of its rights to defend such claim or action.

(b) If the Indemnifying Party assumes the defense of any such claim or litigation resulting therefrom with counsel reasonably acceptable to the Indemnified Party, the Indemnifying Party shall take all steps necessary in the defense or settlement of such claim or litigation resulting therefrom and hold the Indemnified Party harmless from and against any Damages caused by or arising out of any settlement approved by the Indemnifying Party or any judgment in connection with such claim or litigation resulting therefrom; however, the Indemnified Party may participate, at its expense, in the defense of such claim or litigation provided that the Indemnifying Party shall direct and control the defense of such claim or litigation. The Indemnified Party shall cooperate and make available all books and records reasonably necessary and useful in connection with the defense. Except with the prior written consent of the Indemnified Party, the Indemnifying Party shall not, in the defense of such claim or any litigation resulting therefrom, consent to the entry of any judgment (other than a

judgment of dismissal on the merits without cost) or enter into any settlement 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 Damages in respect of such claim or litigation.

(c) If the Indemnifying Party shall not assume the defense of any such claim or litigation resulting therefrom, the Indemnified Party may, but shall have no obligation to, defend against such claim or litigation in such manner as it may deem appropriate, and the Indemnified Party may compromise or settle such claim or litigation without the Indemnifying Party's consent. Within 30 days of written request, the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of all Damages incurred by the Indemnified Party in connection with the defense against or settlement of such claim or litigation. If no settlement of the claim or litigation is made, the Indemnifying Party shall promptly reimburse the Indemnified Party for the amount of any judgment rendered with respect to such claim or in such litigation.

12.5. Limitations on Indemnification. Notwithstanding anything in this Agreement or any of the agreements or documents delivered in connection herewith to the contrary:

(a) Neither party shall be entitled to indemnification hereunder unless and until the aggregate amount of all claims brought by such party exceeds \$5,000.00 in the aggregate (the "Threshold Amount"), and then the party receiving indemnification shall be entitled to indemnification hereunder only for any amounts in excess of the Threshold Amount; and

(b) In no event will either party be required to indemnify the other in an amount in excess of \$50,000.00; provided, that the indemnification limitations contained in this Section 12.5 shall not apply to, or otherwise serve to limit, any claim brought by a party (i)

based on fraud or a material misrepresentation of the other party or (ii) due to the failure or refusal of the other party to consummate the transactions contemplated by this Agreement; nor shall anything contained in this Section 12.5 serve to limit or otherwise abrogate the right of a party to avail itself of any equitable remedy, including specific performance.

12.6. Indemnity Payments. The parties agree that any payments made pursuant to this Article 12 will be treated by the parties on all applicable tax returns as an adjustment to the Purchase Price.

## ARTICLE 13

### TERMINATION RIGHTS

13.1. Termination. This Agreement may be terminated by written notice given by any party (provided such party is not in breach of any of its obligations, representations, warranties or duties hereunder) to the other party hereto, at any time prior to the Closing Date as follows, and in no other manner.

- (a) By mutual consent of the parties;
- (b) By Buyer, if Seller fails to perform or breaches any of its obligations, representations, warranties or duties under this Agreement and Seller has not cured such failure to perform or breach within 15 days after delivery of written notice from Buyer;
- (c) By Seller, if Buyer fails to perform or breaches any of its obligations, representations, warranties or duties under this Agreement and Buyer has not cured such failure to perform or breach within 15 days after delivery of written notice from Seller; or
- (d) By either Buyer or Seller if the Closing has not taken place on or before December 31, 2010, other than by reason of a breach or default of any of the covenants or agreements contained in this Agreement by the party seeking to terminate.

13.2. Liability of Buyer. Upon a termination of this Agreement, Buyer shall have no liability hereunder, except for (a) liability under Article 12 hereof, or (b) liability for a breach or nonperformance of any obligation, covenant or agreement or representation and warranty contained herein.

13.3. Liability of Seller. Upon termination of this Agreement, Seller shall not have any liability or obligation hereunder, except for (a) liability under Article 12 hereof, or (b) liability for a breach or nonperformance of any obligation, covenant or agreement or representation and warranty contained herein.

## ARTICLE 14

### MISCELLANEOUS PROVISIONS

14.1. Specific Performance. Seller and Buyer each recognize and acknowledge that in the event that Seller shall fail to perform its obligations to consummate the transaction contemplated hereby, money damages alone will not be adequate to compensate Buyer for its injury. Seller and Buyer, therefore each agree and acknowledge that, in the event of Seller's failure to perform its obligation to consummate the transaction contemplated hereby, Buyer shall be entitled to specific performance of the terms of this Agreement and of Seller's obligation to consummate the transaction contemplated hereby.

14.2. Risk of Loss. The risk of loss or damage to any of the Stations' Assets prior to the Closing Date, by whatever cause, shall be upon Seller. In the event of such loss or damage, Seller shall notify Buyer of the same within five (5) days and shall promptly restore, repair or replace such loss or damage with items of equivalent quality and value.

14.3. Benefit and Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Either



party may voluntarily assign its interest under this Agreement with the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, that any such assignment shall not release a party from its obligations under this Agreement.

14.4. Headings. The headings set forth in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

14.5. Governing Law. This Agreement and the rights of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of South Dakota without giving effect to the choice of law principles thereof.

14.6. Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

14.7. Severability. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement or any other such instrument.

14.8. Attorneys' Fees. Should any party hereto institute any action or proceeding at law or in equity to enforce any provision of this Agreement, including an action for declaratory relief, or for damages by reason of an alleged breach of any provision hereof, the prevailing party shall be entitled to recover from the losing party or parties reasonable attorneys' fees and costs for services rendered to the prevailing party in such action or proceeding.

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

14.10. Notices. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party shall be in writing. Assuming that the contents of a notice meet the requirements of the specific Section of this Agreement which mandates the giving of that notice, a notice shall be validly given or made to another party if served either personally or if deposited in the United States mail, certified or registered, postage prepaid, or if transmitted by telegraph, telecopy or other electronic written transmission device or if sent by overnight courier service, and if addressed to the applicable party as set forth below. If such notice, demand or other communication is served personally, service shall be conclusively deemed given at the time of such personal service. If such notice, demand or other communication is given by mail, service shall be conclusively deemed given seventy-two (72) hours after the deposit thereof in the United States mail. If such notice, demand or other communication is given by overnight courier, or electronic transmission, service shall be conclusively deemed given at the time of confirmation of delivery. The addresses for the parties are as follows:

If to Seller: Dean Sorenson, President  
Sorenson Broadcasting Corp.  
2804 Ridgeview Way  
Sioux Falls, SD 57105  
Fax No.: 775-806-2661

If to Buyer: Carolyn Becker  
Riverfront Broadcasting, LLC  
3008 Mulligan Drive  
Yankton, SD 57078  
Fax No.: 605-665-4788

Any party hereto may change its or his address for the purpose of receiving notices, demands and other communications as herein provided, by a written notice given in the aforesaid manner to the other parties hereto.

14.11. Incorporation by Reference. All Exhibits and Schedules attached hereto or to be delivered in connection herewith are incorporated herein by this reference.

14.12. Choice of Forum. No claim, demand, action, proceeding, litigation, hearing, motion or lawsuit arising herefrom or with respect hereto shall be commenced or prosecuted in any jurisdiction other than the State of South Dakota, and each party hereby irrevocably consents to the jurisdiction of the state and federal courts in the State of South Dakota.

14.13. Waivers. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

14.14. No Third Party Beneficiaries. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the parties hereto and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

14.15. Entire Agreement. This Agreement, the Schedules and Exhibits attached hereto and the ancillary documents provided for herein, constitute the entire agreement and understanding of the parties hereto relating to the matters provided for herein and superseded any and all prior agreements, arrangements, negotiations, discussions and understandings relating to the matters provided for herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first written above.


[SEPARATE SIGNATURE PAGES FOLLOW]

[SIGNATURE PAGE OF SORENSON BROADCASTING CORPN.]

SELLER:

SORENSEN BROADCASTING CORPN.

By:

  
Dean Sorenson, President

[SIGNATURE PAGE OF RIVERFRONT BROADCASTING, LLC]

BUYER:

Riverfront Broadcasting, LLC.

By: Carolyn Becker  
Carolyn Becker, Member

## **EXHIBIT A**

### **Stations**

Community	Station
Yankton, SD	KYNT-AM KKYA-FM
Pierre, SD	KCCR-AM KLXS-FM
Mitchell, SD	KORN-AM KQRN-FM

**EXHIBIT B**

**FORM OF PROMISSORY NOTE**

**PROMISSORY NOTE**

\$200,000.00

\_\_\_\_\_, 2010

FOR VALUE RECEIVED, RIVERFRONT BROADCASTING, LLC, a South Dakota limited liability company ("Maker"), hereby promises to pay to SORENSON BROADCASTING CORPN, a South Dakota corporation ("Payee"), at its offices at 2804 Ridgeview Way, Sioux Falls, SD 57105, or at such other place as the holder hereof may from time to time direct, in lawful money of the United States of America, the principal sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00), together with interest thereon at a compounded rate of \_\_\_\_% per annum **[to be same rate as bank loan]**. Accrued interest shall be due and payable on the last day of each month during the term of this Note. The entire unpaid principal balance and all accrued and unpaid interest hereunder shall be due and payable on the date which is sixty (60) months following the Closing Date (as such term is defined in that certain Asset Purchase Agreement dated as of December \_\_, 2009, between Maker and Payee).

Notwithstanding anything to the contrary contained herein, no provisions of this Note shall require the payment or permit the collection of interest in excess of the maximum nonusurious interest permitted by applicable law. If for any reason interest in excess of the maximum nonusurious interest permitted by law shall be deemed charged, required or permitted hereunder as determined by the final decision of any court, any such excess shall be applied as a payment on the principal amount of this Note or, if the Note has been paid in full, any remaining excess shall be paid to the Maker.

In the event Maker sells or otherwise transfers any or all of the assets Maker has acquired from Payee under the Asset Purchase Agreement, Maker shall immediately apply all proceeds of such sale(s) or transfer(s) as a prepayment of accrued interest (and, to the extent accrued interest has been fully paid, then outstanding principal) under this Note.

The undersigned, for itself and its successors and assigns, reserves the privilege of prepaying without penalty the entire unpaid principal balance, provided there shall also be paid with such prepayment all accrued interest on the unpaid principal balance.

In the event of default by Maker on this Note, the principal of this Note, together with all accrued interest thereon, may, at the option of the holder hereof, immediately become due and payable on demand and the holder hereof shall have the right to pursue its remedies hereunder, including the offset against this Note of any sums owed by the holder hereof to Maker.

If this Note is not paid when due, whether at maturity or by acceleration, Maker promises to pay all costs of collection, including but not limited to reasonable attorneys' fees, if and to the extent such are then permitted to be recovered by the laws of the State of South Dakota, whether or not suit is filed hereon.

All notices, demands and requests required or desired to be given hereunder shall be delivered in accordance with the terms of the Asset Purchase Agreement referenced above.

The undersigned Maker, for itself, its successors, transferees and assigns and all guarantors, hereby waives notice, presentment for payment, demand for payment, notice of dishonor, protest, notice of protest, notice of acceleration, notice of intent to accelerate, notice of intent to demand, diligence in collecting, grace, and any other formalities of any kind, and expressly agrees that this Note and any payment coming due hereunder may be extended from time to time without in any way affecting its liability hereunder.

This Note has been executed in and shall be governed by the laws of the State of South Dakota, which laws shall also cover and control the construction, enforceability, validity and interpretation of this Note.

MAKER:

RIVERFRONT BROADCASTING, LLC

By \_\_\_\_\_  
Carolyn Becker, Member

#### **GUARANTY**

The undersigned (herein "Guarantor") hereby guarantees the due and punctual payment of the indebtedness and obligations of the Maker under this Note. The obligation of Guarantor hereunder shall be absolute and unconditional. In order to hold Guarantor liable hereunder, there shall be no obligation on the part of the Payee or its assigns to proceed against the Maker or its assets, or to resort to any other rights or remedies whatsoever.

Notice of the acceptance of this Guaranty, of nonpayment of the amount of indebtedness outstanding at any time, of protest, demand, or other remedy availed of hereunder is expressly waived.

Guarantor hereby expressly consents to any renewal or extension of this Note and no notice of any renewal or extension of this Note need be given to Guarantor.



This Guaranty shall be binding upon the undersigned and upon its successors and assigns, and shall inure to the benefit of Payee and its successors and assigns.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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## SCHEDULE 1.1

### REAL PROPERTY

#### A. YANKTON

1. Yankton Studio/Office, 202 West 2nd Street (Owned):

West Fifty (50) feet of Lots Ten (10), Eleven (11), and Twelve (12), Block Twelve (12) in that part of the City and County of Yankton, South Dakota, platted and known as Yankton.

2. Yankton KYNT-AM Transmitter Site (Owned):

A square tract consisting of 4 acres, the NW corner of which coincides with the NW corner of (and being a part of) the S1/2 of NW1/4 of Section 12, Township 93, Range 56, Yankton County, South Dakota, according to the recorded plat thereof, also known as K.Y.N.T. Addition to the City of Yankton, South Dakota.

3. Yankton KKYA-FM Tower Site (Leased):

Lease with Robert Steffen. Lease expires/renews March 1, 2017.

4. INCOME ITEM:

Lease with Trinity Broadcasting for space on KKYA tower. Lease expires/renews July 16, 2016.

#### B. MITCHELL

1. Mitchell Studio Site, 319 North Main Street (Owned):

Lots 2 and 3, except the West Fifty (50) feet, Block 3, Mitchell, Davison County, South Dakota.

2. Mitchell Tower Site (Owned):

Lot 1 in SW ¼ (except Lot H-1 and Lot H-2) of Section 23, Township 103, Range 60, Davison County, South Dakota.

#### C. PIERRE

1. Pierre Studio/Office Site, 106 West Capital (Leased):

Leased from Willard and Associates. Month to Month.

2. Pierre KCCR-AM Transmitter Site (Leased):  
Leased from Izaak Walton League. Lease renews 8/17/19.
3. Pierre OLD KLXS-FM Transmitter Site (Leased):  
Leased from Clair Family Partnership. Lease expires 4/24/10.
4. Pierre NEW KLXS Transmitter Site (Leased):  
Leased from Orville Hicks family. Lease expires/renews 12/31/14.
5. INCOME ITEMS:

KDLT-TV - Space on New KLXS tower. Lease thru 4/30/15

FBI/Dept. of Justice - Space on New KLXS tower.  
Year to Year, as funds are approved by U.S. Congress.

SD Public Radio - Space on Old KLXS tower.  
Lease thru 12/31/11

KTTW Fox TV - Space on New KLXS tower.  
Lease thru 4/17/10

Pierre Police Dept