

## **OPTION AGREEMENT**

THIS OPTION AGREEMENT ("Agreement"), dated January 2, 2003, is by and between Superior Broadcasting of Chicago, LLC ("Licensee") and HBC License Corporation ("HBC License").

### **WITNESSETH:**

WHEREAS, Big City Radio-Chi, LLC ("BCR License Sub") is the licensee of radio station WXXY-FM (the "Station"), licensed to Highland Park, Illinois to operate at 103.1 MHz (FCC Facility ID No. 74177); and

WHEREAS, HBC Illinois, Inc. ("HBC Illinois"), BCR License Sub and Big City Radio, Inc. ("BCR"; together with BCR License Sub, "Seller"), are parties to an Asset Purchase Agreement, of even date herewith (the "Purchase Agreement"), pursuant to which (i) HBC Illinois proposes to purchase from Seller the assets of the Station and (ii) subject to FCC approval, Seller has agreed to assign to Licensee all of the governmental licenses used in the ownership and operation of the Station (the "FCC Licenses") and certain other assets of the Station (collectively with the FCC Licenses, the "FCC Assets"), all subject to the terms and conditions set forth in the Purchase Agreement; and

WHEREAS, upon the occurrence of the closing of the transactions contemplated by the Purchase Agreement, HBC Illinois and Licensee will commence the operation of a Time Brokerage Agreement of even date herewith, pursuant to which HBC Illinois will avail itself of the Station's broadcast time for the presentation of programming service, including the sale of advertising time; and

WHEREAS, HBC Illinois has entered into the Purchase Agreement and the Time Brokerage Agreement based upon the entering by Licensee of this Option Agreement; and

WHEREAS, HBC License desires to have the right and option to purchase (the "Call Option") from Licensee the FCC Assets under the terms and conditions herein set forth, and Licensee desires to grant to HBC License such Call Option; and

WHEREAS, Licensee desires to have the right and option to sell to HBC License (the "Put Option") all of the FCC Assets under the terms and conditions herein set forth, and HBC License desires to grant to Licensee such Put Option.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. Licensee hereby grants to HBC License the Call Option, and HBC License hereby grants to Licensee the Put Option. Neither option shall become effective until such date (the "Effective Date") that is the earlier of (i) September 30, 2003 or (ii) the date by which both of the following shall have occurred: (i) the Time Brokerage Agreement shall have become effective

and (ii) the merger of a subsidiary of Univision Communications, Inc. into Hispanic Broadcasting Corporation shall have become effective or shall have been terminated.

2. HBC License may exercise the Call Option, and Licensee may exercise the Put Option, at any time after the Effective Date and prior to December 31, 2009. HBC License may exercise the Call Option by giving written notice to Licensee of its exercise of the Call Option prior to the expiration thereof. Licensee may exercise the Put Option by giving written notice to HBC License of its exercise of the Put Option prior to the expiration thereof.

3. The exercise price payable by HBC License to Licensee upon the exercise of the Put Option or Call Option shall be \$50,000 and shall be paid upon the Closing of the transactions contemplated by the Asset Purchase Agreement referenced in paragraph 4 below ; provided, however, that any payments made to Licensee under the Time Brokerage Agreement shall be deemed a credit against the payment of the exercise price. In addition to the foregoing exercise price, HBC License shall also pay to Licensee the Upgrade Payment listed on Appendix I hereto if, and at such time as, the Station is broadcasting pursuant to valid FCC authorization as a Class A radio station at the Evanston/Lincoln transmitter site at full authorized power (3,400 watts) and height (the center of the radiation shall be no less than 440 feet HAAT).

4. Upon the exercise of the Put Option or Call Option, HBC License and Licensee shall execute an Asset Purchase Agreement substantially in the form of Exhibit A attached hereto. The consummation of the exercise of the Put Option or Call Option, as applicable, shall be subject to the closing conditions set forth in the Asset Purchase Agreement, including the consent of the FCC to the assignment of the FCC Licenses to HBC License.

5. Each of HBC License and Licensee represents and warrants to the other as follows:

(a) It is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization.

(b) It has full power and authority to enter into this Agreement and the Time Brokerage Agreement and to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and the Time Brokerage Agreement and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action.

(c) It has duly executed and delivered this Agreement and the Time Brokerage Agreement, and each of this Agreement and the Time Brokerage Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally or general equitable principles.

(d) Neither the execution and delivery by it of this Agreement nor the Time Brokerage Agreement nor the consummation of the transactions contemplated hereby or thereby will: (i) conflict with or result in a breach of its organizational documents; (ii) violate any law or

order of any court or governmental authority; or (iii) violate or conflict with or constitute a default under (or give rise to any right of termination, cancellation or acceleration under) any indenture, mortgage, lease, contract or other instrument to which it is a party or by which it is bound or affected.

(e) No consent, approval, authorization, license, exemption of, filing or registration with any court or governmental authority is required in connection with the execution and delivery of this Agreement or the consummation by it of any transaction contemplated hereby, other than the consent of the FCC to the assignment of the FCC Licenses to HBC License upon the exercise of the Put Option or the Call Option, as applicable. No approval, authorization or consent of any other person is required in connection with the execution and delivery by it of this Agreement and the consummation of the transactions contemplated hereby, except as may have been previously obtained by it.

6. Except as otherwise expressly provided herein, each party shall pay the fees and expenses incurred by it in connection with the transactions contemplated by this Agreement. If any action is brought for breach of this Agreement or to enforce any provision of this Agreement, the prevailing party shall be entitled to recover court costs, arbitration expenses and reasonable attorneys' fees.

7. This Agreement may be amended at any time but only by an instrument in writing signed by the parties hereto.

8. HBC License may assign this Agreement (i) to any subsidiary of Hispanic Broadcasting Corporation or (ii) upon the prior written consent of Licensee, which shall not be unreasonably withheld, to a party unaffiliated with Hispanic Broadcasting Corporation; provided, however, that HBC License shall remain liable hereunder regardless of any assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs and permitted assigns.

9. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10. All notices hereunder shall be in the manner and to the addresses set forth in the Time Brokerage Agreement.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

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

Superior Broadcasting of Chicago, LLC

By: /s/ Chris Devine  
Chris Devine, President

HBC License Corporation

By: /s/ Jeffrey T. Hinson  
Jeffrey T. Hinson, Senior Vice President

*Appendix I*

*(Capitalized terms not otherwise defined herein shall have the respective meaning set forth in the Time Brokerage Agreement)*

**[REDACTED]**

## ASSET PURCHASE AGREEMENT

**THIS ASSET PURCHASE AGREEMENT** (this “**Agreement**”) is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2003, by and among Superior Broadcasting of Chicago, LLC (“**Seller**”) and HBC License Corporation, a Delaware corporation (“**Purchaser**”).

**WHEREAS**, Seller is the licensee of radio broadcast station WXXY-FM, licensed to Highland Park, Illinois and authorized by the FCC to operate at 103.1 MHz (FCC Facility ID No. 74177) (the “**Station**”); and

**WHEREAS**, HBC Illinois, Inc., an Affiliate of Purchaser, and Seller are parties to a Time Brokerage Agreement, dated December 31, 2002, with respect to the Station pursuant to which, subject to Seller’s full authority to manage and control the operation of the Station, HBC Illinois, Inc. programs the Station’s broadcasting facilities; and

**WHEREAS**, [Seller/Purchaser] has duly exercised the [Put/Call] Option described in that certain Option Agreement, dated December 31, 2002, to which Seller and Purchaser are parties;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

### **1. Purchase and Sale of Assets.**

Subject to the conditions set forth in this Agreement (including all required consents of the FCC), at the Closing, Seller shall assign, transfer, convey and deliver to Purchaser, and Purchaser shall purchase and accept from Seller, all right, title and interest of Seller, in all licenses, construction permits or authorizations issued by or pending before the FCC for use in the operation of the Station that are set forth on Schedule 1 attached hereto, together with any and all renewals, extensions and modifications thereof (the “**FCC Licenses**”), and certain other assets of the Station that are held by Seller (collectively with the FCC Licenses, the “**FCC Assets**”).

### **2. Purchase Price.**

The purchase price for the FCC Assets (the “**Purchase Price**”) shall be the exercise price described in the Option Agreement.

### **3. Time of Closing.**

The closing for the sale and purchase of the FCC Assets (the “**Closing**”) shall be held at the offices of the Seller (or such other place as may be agreed upon by the parties in writing). The Closing shall occur on such date (the “**Closing Date**”) that is the fifth (5<sup>th</sup>) Business Day after the date on which the FCC Order shall have been granted. The Closing shall be deemed to be effective as of 12:01 a.m. on the Closing Date.

#### **4. Closing Procedures.**

At the Closing, each party will cause to be prepared, executed and delivered all other documents required to be delivered by such party pursuant to this Agreement and all other appropriate and customary documents as another party or its counsel may reasonably request for the purpose of consummating the transactions contemplated by this Agreement. All actions taken at the Closing shall be deemed to have been taken simultaneously at the time the last of any such actions is taken or completed.

#### **5. Representations and Warranties.**

Each of Purchaser and Seller represents and warrants to the other as follows:

(a) It is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization.

(b) Subject to the FCC Order, it has full power and authority to enter into this Agreement and to carry out Purchaser's obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action.

(c) It has duly executed and delivered this Agreement, and this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally or general equitable principles.

(d) Neither the execution and delivery by it of this Agreement nor the consummation of the transactions contemplated hereby will: (i) conflict with or result in a breach of its organizational documents; (ii) subject to the FCC Order, violate any Law or Order of any court or Governmental Authority; or (iii) violate or conflict with or constitute a default under (or give rise to any right of termination, cancellation or acceleration under) any indenture, mortgage, lease, contract or other instrument to which it is a party or by which it is bound or affected.

(e) No consent, approval, authorization, license, exemption of, filing or registration with any court or Governmental Authority is required in connection with the execution and delivery of this Agreement or the consummation by it of any transaction contemplated hereby, other than the consent of the FCC. No approval, authorization or consent of any other Person is required in connection with the execution and delivery by it of this Agreement and the consummation of the transactions contemplated hereby, except as may have been previously obtained by it.

(f) No person has as a result of any agreement entered into by it any valid claim against any of the parties hereto for a brokerage commission, finder's fee or other like payment.

## **6. Regulatory Approvals.**

(a) No later than five days after the date hereof, Seller and Purchaser shall jointly cause to be filed by Seller's FCC counsel an application with the FCC requesting the FCC's consent to the assignment of the FCC Licenses from Seller to Purchaser (the "**FCC Assignment Application**"). Purchaser shall pay all of the expenses of the Purchaser and Seller in connection with the preparation and prosecution of the FCC Assignment Application, including any filing fees associated with the FCC Assignment Application.

(b) Upon the terms and subject to the conditions set forth in this Agreement, Seller and Purchaser shall each use their respective reasonable best efforts to promptly (i) take, or to cause to be taken, all actions, and to do, or to cause to be done, and to assist and cooperate with the other parties in doing all things necessary, proper or advisable under applicable Law or otherwise to consummate and make effective the transactions contemplated by this Agreement; (ii) obtain from any Governmental Authority or other Person any actions, non-actions, clearances, waivers, consents, approvals, permits or Orders required to be obtained by Seller, Purchaser or any of their respective Affiliates in connection with the authorization, execution, delivery and performance of this Agreement, the consummation of the other transactions contemplated hereby and thereby and the assignment of the FCC Assets from Seller to Purchaser; (iii) furnish all information required for any application or other filing to be made pursuant to any applicable Law or any applicable regulations of any Governmental Authority in connection with the transactions contemplated by this Agreement, including filings in connection with the FCC Assignment Application, and to supply promptly any additional information and documentary material that may be requested in connection with such filings or applications; (iv) avoid the entry of, or have vacated or terminated, any Order that would restrain, prevent or delay the Closing or the FCC Order, including defending against and opposing any lawsuits or other proceedings (including any FCC reconsideration or review), whether judicial or administrative, reviewing or challenging this Agreement, the consummation of the other transactions contemplated hereby and thereby or the assignment of the FCC Assets from Seller to Purchaser; and (v) execute and deliver any additional instruments necessary to assign the FCC Assets from Seller to Purchaser or to consummate any other transactions contemplated by this Agreement. No party to this Agreement shall consent to any voluntary delay of the assignment of the FCC Assets from Seller to Purchaser or the consummation of the other transactions contemplated hereby at the behest of any Governmental Authority or other Person without the consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

## **7. Public Announcements.**

Seller and Purchaser shall consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or the transactions contemplated herein and shall not issue any such press release or make any such public statement without the prior written consent of the other party, which shall not be unreasonably withheld and Purchaser shall include Seller in any press release, at Seller's option; provided, however, that a party may, without the prior written consent of the other party, issue such press release or make such public statement as may be required by Law or any listing agreement with a national securities exchange to which Seller or Purchaser is a party if it has used all reasonable efforts to consult with the other party and to obtain such party's consent but has been unable to do so in a



timely manner.

## **8. Indemnification.**

As used in this Section 8, the term “*Claim*” shall include (i) all liabilities; (ii) all losses, damages (including, without limitation, consequential damages), judgments, awards, penalties and settlements; (iii) all demands, claims, suits, actions, causes of action, proceedings and assessments, whether or not ultimately determined to be valid; and (iv) all costs and expenses (including, without limitation, interest (including prejudgment interest in any litigated or arbitrated matter), court costs and fees and expenses of attorneys and expert witnesses) of investigating, defending or asserting any of the foregoing or of enforcing this Agreement.

### **8.1 Indemnification.**

Subject to the terms and conditions of this Section 8, Purchaser hereby agrees to indemnify, defend and hold harmless Seller, its directors, officers, employees and controlling persons, from and against all Claims asserted against, resulting to, imposed upon or incurred by any such person, directly or indirectly, by reason of or resulting from:

- (a) the inaccuracy or breach of any representation or warranty of Purchaser contained in or made pursuant to this Agreement (regardless of whether such breach is deemed “*material*”);
- (b) the breach of any covenant of Purchaser contained in this Agreement (regardless of whether such breach is deemed “*material*”); or
- (c) the ownership or operation of the Station at anytime.

Notwithstanding the foregoing, Purchaser shall not be obligated under this Section 8 in respect of any Claims arising from (i) the gross negligence or willful misconduct of an indemnified party or (ii) the actions or omissions of Seller or its affiliates in the performance of its obligations in upgrading the Station’s broadcasting facilities as contemplated by the Time Brokerage Agreement.

### **8.2 Indemnification of Third-Party Claims.**

The following provisions shall apply to any Claim subject to indemnification which is (i) a suit, action or arbitration proceeding filed or instituted by any third party, or (ii) any other form of proceeding or assessment instituted by any Governmental Authority:

(a) *Notice and Defense.* The Seller will give prompt written notice of any such Claim, and the Purchaser will undertake the defense thereof by representatives chosen by it. The assumption of defense shall constitute an admission by the Purchaser of its indemnification obligation hereunder with respect to such Claim, and its undertaking to pay directly all costs, expenses, damages, judgments, awards, penalties and assessments incurred in connection therewith. Failure to give such notice shall not affect the Purchaser's duty or obligations under this Section 8. So long as the Purchaser is defending any such Claim actively and in good faith,

the Seller shall not settle such Claim. The Seller shall make available to the Purchaser or its representatives all records and other materials required by them and in the possession or under the control of the Seller, for the use of the Purchaser and its representatives in defending any such Claim, and shall in other respects give reasonable cooperation in such defense.

(b) *Failure to Defend.* If the Purchaser, within a reasonable time after notice of any such Claim, fails to defend such Claim actively and in good faith, the Seller will (upon further notice) have the right to undertake the defense, compromise or settlement of such Claim or consent to the entry of a judgment with respect to such Claim, on behalf of and for the account and risk of the Purchaser, and the Purchaser shall thereafter have no right to challenge the Seller's defense, compromise, settlement or consent to judgment.

(c) *Indemnified Party's Rights.* Anything in this Section 8 to the contrary notwithstanding, (i) if there is a reasonable probability that a Claim may materially and adversely affect the Seller other than as a result of money damages or other money payments, the Seller shall have the right to defend, compromise or settle such Claim, and (ii) the Purchaser shall not, without the written consent of the Seller, settle or compromise any Claim or consent to the entry of any judgment which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Seller of a release from all Liability in respect of such Claim.

### **8.3 Payment.**

The Purchaser shall promptly pay the Seller any amount due under this Section 8. Upon judgment, determination, settlement or compromise of any third party Claim, the Purchaser shall pay promptly on behalf of the Seller, and/or to the Indemnified Party in reimbursement of any amount theretofore required to be paid by it, the amount so determined by judgment, determination, settlement or compromise and all other Claims of the Seller with respect thereto, unless in the case of a judgment, an appeal is made from the judgment. If the Purchaser desires to appeal from an adverse judgment, then the Purchaser shall post and pay the cost of the security or bond to stay execution of the judgment pending appeal. Upon payment in full by the Purchaser, the Purchaser shall succeed to the rights of such Seller, to the extent not waived in settlement, against the third party who made such third party Claim.

## **9. Termination.**

This Agreement may be terminated only upon the mutual written agreement of Seller and Purchaser.

## **10. Transfer Taxes.**

All sales, use, transfer, filing, recordation, registration and similar Taxes and fees arising from or associated with the transactions contemplated hereunder, whether levied on Purchaser or Seller, shall be borne by Purchaser. Purchaser or Seller, as required by Law, shall file all necessary documentation with respect to, and Purchaser shall make all payments of, such taxes and fees on a timely basis.

**11. Benefit and Assignment.**

No party hereto shall assign this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of the other party hereto. Any purported assignment contrary to the terms hereof shall be null, void and of no force and effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns as permitted hereunder. No Person, other than the parties hereto, is or shall be entitled to bring any action to enforce any provision of this Agreement against any of the parties hereto, and the covenants and agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by, the parties hereto or their respective successors and assigns as permitted hereunder.

**12. Entire Agreement; Amendment.**

This Agreement and the other instruments and documents referred to herein or delivered pursuant hereto contains the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments or understandings with respect to such matters. No amendment, modification or discharge of this Agreement shall be valid or binding unless set forth in writing and duly executed by the party or parties against whom enforcement of the amendment, modification or discharge is sought.

**13. Governing Law; Jurisdiction.**

This Agreement, the rights and obligations of the parties hereto, and any claims or disputes relating thereto, shall be governed by and construed under and in accordance with the laws of the State of Illinois, without giving effect to the conflict of laws principles thereof. The parties hereto hereby waive personal service of any process in connection with any such action, suit or proceeding and agree that the service thereof may be made by certified or registered mail addressed to or by personal delivery to the other party, at such other party's address set forth in the Time Brokerage Agreement. In the alternative, in its discretion, any of the parties hereto may effect service upon any other party in any other form or manner permitted by law.

**14. Signature in Counterparts.**

This Agreement may be executed in separate counterparts, none of which need contain the signatures of all parties, each of which shall be deemed to be an original, and all of which taken together constitute one and the same instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than the number of counterparts containing the respective signatures of, or on behalf of, all of the parties hereto.

**15. Definitions.**

As used herein, capitalized terms used above without definition shall have the respective meanings assigned hereto in this Section 14:

**“Affiliates”** of a party shall mean persons or entities that directly, or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, such party.

**“Agreement”** shall have the meaning set forth in the Preamble.

**“Business Day”** shall mean a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close.

**“FCC”** shall mean the Federal Communications Commission.

**“FCC Order”** shall mean that the FCC (including the Media Bureau pursuant to delegated authority) has granted or given its consent, without any condition materially adverse to Purchaser or Seller, to the assignment of the FCC Licenses in accordance with the terms of the FCC Assignment Application.

**“Governmental Authority”** shall mean any court, arbitrator, department, commission, board, bureau, agency, authority, instrumentality or other body, whether federal, state, municipal, foreign or other.

**“Law”** shall mean any statute, law, ordinance, rule or regulation.

**“Order”** shall mean any order, writ, injunction, judgment, plan or decree of any Governmental Authority.

**“Person”** or **“person”** shall mean any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization, other form of business or legal entity or Governmental Authority.

**“Taxes”** shall mean all federal, state and local taxes (including income, profit, franchise, sales, use, real property, personal property, ad valorem, excise, employment, social security and wage withholding taxes) and installments of estimated taxes, assessments, deficiencies, levies, imports, duties, license fees, registration fees, withholdings, or other similar charges of every kind, character or description imposed by any Governmental Authorities.

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

Superior Broadcasting of Chicago, LLC

By: /s/ Chris Devine

HBC License Corporation

By: /s/ Jeffrey T. Hinson