

## AGREEMENT FOR LIKE-KIND EXCHANGE OF ASSETS

THIS AGREEMENT FOR LIKE-KIND EXCHANGE OF ASSETS, hereinafter called ("Agreement"), is made and entered into this \_\_\_\_\_ day of April, 2004, by and between **SORENSEN BROADCASTING CORPN.**, a South Dakota corporation, hereinafter called ("SBC"), and **WMMP, LLC**, a South Dakota limited liability company, hereinafter called ("Waitt"). The term "Schedule" as used herein shall refer to both Waitt's and SBC's schedules attached hereto.

WITNESSETH:

WHEREAS, SBC owns and operates radio broadcast stations KJJQ (AM) and KKQQ (FM), licensed to Volga, South Dakota, KDBX (FM), licensed to Clear Lake, South Dakota, KWAT (AM), KDLO-FM and KIXX (FM), licensed to Watertown, South Dakota, KKSD (FM), licensed to Milbank, South Dakota and KVFD (AM) and KUEL (FM), licensed to Fort Dodge, Iowa, pursuant to licenses issued by the Federal Communications Commission ("FCC"), including all of the assets used in the operation of such stations set forth on the Schedules and Exhibits attached to this Agreement and made a part hereof by reference, (hereinafter referred collectively as the "SBC Stations"), and

WHEREAS, Waitt owns and operates radio broadcast stations KSOU (AM) and KSOU-FM, licensed to Sioux Center, Iowa, KIHK (FM), licensed to Rock Valley, Iowa, KUOO (FM) licensed to Spirit Lake, Iowa, KUQQ (FM) licensed to Milford, Iowa and KAYL (AM) and KAYL-FM, licensed to Storm Lake, Iowa, pursuant to licenses issued by the FCC, including all of the assets used in the operation of such stations set forth on the Schedules and Exhibits attached to this Agreement and made a part hereof by reference, (hereinafter referred to as the "Waitt Stations") (the SBC Stations and the Waitt Stations may be collectively referred to herein as the "Stations"); and

WHEREAS, Waitt Radio, Inc., a South Dakota corporation ("Waitt Radio") and SBC entered into that certain Programming Agreement, dated December 1, 2003, (the "Programming Agreement"), pursuant to which, Waitt Radio is currently providing programming to a group of radio broadcast stations owned by SBC, including, in part, the SBC Stations; and

WHEREAS, Waitt Radio and SBC entered into that certain Option Agreement, dated December 1, 2003 (the "Option Agreement"), and SBC granted Waitt Radio an option to purchase certain radio broadcast stations listed therein including, in part, the SBC Stations (the "Option"); and

WHEREAS, Waitt Radio and SBC are willing to terminate the Option and their respective rights and obligations under the Programming Agreement solely with respect to the SBC Stations and in consideration thereof agree to enter into a new option and similar programming agreement with respect to the Waitt Stations; and

WHEREAS, SBC desires to exchange the SBC Stations to Waitt, and Waitt desires to exchange the Waitt Stations to SBC in order to effect an exchange of like-kind property as defined by Section 1031 of the Internal Revenue Code.

NOW THEREFORE in consideration of the mutual covenants, agreements and conditions herein set forth, SBC and Waitt agree to a mutual exchange of the SBC Stations and the Waitt Stations pursuant to the following terms and conditions:

#### **ARTICLE 1: Exchange of Stations**

1.1. Station Assets. Subject to and in reliance upon the representations, warranties and agreements herein set forth, and subject to the terms and conditions herein contained, each of the parties hereto shall grant, convey, assign, transfer, deliver and exchange with the other party on the Closing Date, (as hereinafter defined), all right, title and interest of each party in the properties, assets, privileges, rights, interests and claims, real and personal, tangible and intangible, of every type and description, including its business as set forth on Schedule 1.1 (except for the Excluded Assets as defined in Section 1.2), used or held for use in the business or operation of the SBC Stations and the Waitt Stations, respectively. Without limiting the foregoing, the assets to be exchanged shall include the following (the "Assets"):

(a) each party's respective tangible personal property, assets and equipment relating to the Stations;

(b) all claims, rights and benefits under all contracts, agreements, assignments, commitments, understandings and other legally binding arrangements relating to the Stations, whether oral or written, express or implied, and whether or not entered into in the ordinary course of business as listed on Schedule 1.1(b) (those contracts and agreements listed on Schedule 1.1(b) and marked with "\* \*" shall be referred to herein as, the "Material Contracts"), but excluding all insurance contracts and agreements with advertisers assumed by Waitt in accordance with the Programming Agreement dated December 1, 2003 between SBC and Waitt Radio, Inc. (the "Programming Agreement") with respect to the SBC Stations and all employment records and agreements, agreements with advertisers, programming contracts (except as required to be in the name of the Licensee which will be assigned to SBC), insurance contracts related to the programming operations and asset of Waitt and not listed on the Schedules, with respect to the Waitt Stations:

(c) each party's respective right, title and interest in and to all licenses and other governmental authorizations relating to or used by the Stations, including, but not limited to, FCC Authorizations, and all applications therefor, together with any renewals, extensions or modifications thereof as listed in Schedule 1.1(c);

(d) all copyrights, patents, trademarks, service marks, logotypes, jingles, slogans and trade names (including registrations and applications for registration of any of the foregoing) and all proprietary and other information, technical information and

data, blueprints and schematics, production methods, know-how, processes, inventions, computer programs and program rights, trade secrets, advertiser lists, mailing lists, goodwill, permits and other similar intangible rights and interests issued to or owned by either SBC or Waitt and listed on Schedule 1.1(d) hereto;

(e) the call letters for each and every Station, filings with the FCC and any other governmental authority relating to any of the Stations;

(f) all interests in real property, excluding the property used for studios that is owned by the respective party which will be the subject of leases during the term of the Programming Agreement, including, without limitation, real property owned in fee, by easement, by right of way or otherwise occupied pursuant to a leasehold or other occupancy agreement, together with any and all improvements, fixtures and towers located thereon, used or useful in connection with, or pertaining or relating in any manner whatsoever to, the conduct of the business or operation of the Stations being transferred hereunder, as described on Schedule 1.1(f) as being exchanged, and all easements, privileges, appurtenances, rights of way, riparian and other water rights, lands underlying any adjacent streets or roads, licenses, permits and other rights pertaining to or accruing to the benefit of such property (collectively, the "Real Estate");

(g) all of the files and other records (including FCC logs) of each party relating to the operation of the Stations (other than duplicate copies of such files and records that are maintained in the corporate offices of such party or its counsel);

1.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, the exchange of like-kind property herein shall not include assets, along with any and all rights and interests attributable thereto, which are not listed on the Schedules, hereinafter referred to as (the "Excluded Assets") and which shall specifically exclude the following:

(a) claims by either party with respect to its respective Excluded Assets and liabilities not assumed by the other party, including, without limitation, claims for tax refunds, counterclaims with respect to obligations, and liabilities not being assumed by the other party;

(b) accounts receivable;

(c) all contracts of insurance;

(d) all employee benefits plans of any nature;

(e) cash on hand and in banks, money market funds and bond funds;

(f) all tangible personal property disposed of or consumed in the ordinary course of the operation of the Stations as permitted hereinunder or with the consent of the other party between the date of this Agreement and the Closing Date;

(g) the name Sorenson Broadcasting Corpn, WMMP, LLC, Waitt Radio, Inc., or any variants thereof;

(h) any assets, tangible or intangible, that are not used by the applicable party in connection with the business and operation of the Stations as listed on Schedule 1.2(h);

(i) the real property on which the SBC Stations or the Waitt Stations studios are located; and

1.3 Liabilities. The Assets shall be sold and conveyed to the other party free and clear of all liabilities (which includes any balance owed for services previously rendered or the value of services owed for services previously rendered under trade or barter agreements), obligations, liens, security interests and encumbrances, except for liens for property taxes not yet due and payable ("Permitted Liens"). Neither party will assume and or be liable for any liability, obligation, claim, lien, security interest or encumbrance of the conveying party other than those liabilities and obligations arising on or after the Closing Date under the Material Contracts assigned to the other party hereunder.

1.4 Agreed Values. The parties acknowledge and agree that the property being exchanged herein is of equal value within each general class of exchangeable property, and that SBC agrees to exchange to Waitt, and Waitt agrees to exchange to SBC all of their respective properties as described herein to qualify as a like-kind exchange of property under Section 1031 of the Internal Revenue Code so as to effect a tax free like-kind exchange of property. Neither party shall owe any boot as a result of this like-kind exchange.

1.5 Allocation. Allocation, if any, shall be as mutually agreed to between the parties in writing at, or before, Closing.

1.6 Adjustments. To the extent that any adjustments required hereby have not been made under the Programming Agreement, the parties shall make adjustments based on the following:

(a) All income and expenses related to the Assets being exchanged shall be adjusted and allocated between SBC and Waitt. The net amount by which adjustments, if any, is to be increased or decreased in accordance with this Section is herein referred to as the "Adjustment Amount."

(b) Without limiting the generality of the foregoing:

(i) Each respective owner shall receive a credit for the unapplied portion, as of the Closing Date (defined below) or the Effective Date (as defined in the Programming Agreement) (as applicable), of any security deposits made by such party under the Station's contracts assumed by the other party at Closing.

(ii) An adjustment shall be made in favor of SBC or Waitt, as applicable, for the amount, if any, of prepaid expenses that inure to the benefit of the other party after the Closing Date.

(c) To the extent not inconsistent with the express provisions of this Agreement, the adjustments made pursuant to this Section shall be made in accordance with generally accepted accounting principles.

(d) The prorations and adjustments provided for in this Section, to the extent practicable, shall be made on the Closing Date. As to those prorations and adjustments not capable of being ascertained on the Closing Date, an adjustment and proration shall be made within sixty (60) days of the Closing Date.

(e) In the event of any disputes between the parties as to the Adjustment Amount, such disputes shall be determined by an independent certified public accountant which is mutually acceptable to both parties whose determination shall be final, and the fees and expenses of such accounting firm shall be borne equally by both parties.

1.7 Closing. The closing of this like-kind exchange of property shall take place at a date and time mutually agreed upon by the parties following issuance of all FCC Consents (defined in Section 1.8) and satisfaction of all other contingencies hereinafter provided in this Agreement which shall take place no later than July 26, 2004. Alternatively, the closing may take place at such other place, time or date as the parties may mutually agreeable between the parties in writing. The date in which the closing is to occur is referred to herein as (the "Closing Date"). The parties acknowledge that this Closing shall take place simultaneously with the closing of the sale of the SBC Stations from Waitt to Three Eagles of Joliet, Inc. ("Three Eagles")

#### 1.8 FCC Application.

(a) Within five (5) days after the execution of this Agreement, the parties shall simultaneously file applications with the FCC, hereinafter called (the "FCC Applications"), requesting the FCC's written consent to the assignment of the FCC Authorizations from each party to the other party pursuant to this Agreement. Each party agrees to use its reasonable best efforts with the other's cooperation to prosecute the FCC Applications so that the FCC delivers written and effective consents under each of the FCC Applications to the requested assignments and such consents have become final and no longer subject to further administrative or judicial review (the "FCC Consents"). Simultaneously with the filing of the FCC Applications, an application for assignment of the SBC Stations from Waitt to Three Eagles shall also be filed with the FCC (the "Three Eagles Assignment"). The parties agree that the Closing of the transactions contemplated herein is expressly conditioned upon FCC approval and closing of the Three Eagles Assignment.

## **ARTICLE 2: Representations and Warranties of the Parties**

SBC and Waitt acknowledge that in discharging their respective duties under the Programming Agreement, Waitt, through its personnel, agents and representatives, has been present at the SBC Stations, has observed the operations, and has assumed certain responsibility for such operations, all under the ultimate control of SBC. Accordingly, notwithstanding anything else to the contrary herein, SBC and Waitt agree that SBC's representations, warranties and covenants herein are qualified such that SBC will be relieved of liability with respect to claims, events and conditions to the extent which (a) the actions or inactions of Waitt, its agents, personnel or representatives, under color of the Programming Agreement, were or are a proximate cause or (b) adverse changes could have been mitigated had such matters been promptly reported to SBC following observation or knowledge thereof by Waitt, its agents, personnel or representatives.

Subject to the foregoing, both parties represent and warrant as follows:

2.01. Organization; Qualification. Each party is duly organized, validly existing and in good standing under the laws of the State of South Dakota and is authorized as a foreign corporation doing business in the State of Iowa. Each party has the full power and authority to own and operate its Assets and carry on the business operations of the Stations as such operations are now being conducted.

2.02. Authority Relative to This Agreement. Both parties have, as applicable, the full business or corporate power, authority and legal right to execute and deliver this Agreement and to consummate the transactions and perform its obligations as contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary business and shareholder or member action, and this Agreement has been duly and validly executed and delivered by each party and constitutes a legal, valid and binding obligation of the delivering party enforceable against it in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency or similar law affecting the rights of creditors generally.

2.03. Restatement of Prior Representations and Warranties. Except as listed in Schedule 3.03, all of the representations and warranties of SBC contained in Section 21 of that certain Interim Programming Agreement by and between Waitt and SBC, dated January 1, 2000 (the "Interim Agreement") are hereby incorporated herein by reference, restated and are materially true and correct as of the date hereof.

2.04. No Defaults. The execution, delivery and performance of this Agreement will not (a) conflict with any provision of either party's organizational documents, (b) result in a default (or give rise to any right of termination, cancellation or acceleration) under or conflict with any of the terms, conditions or provisions of any Material Contract, note, bond, mortgage or other instrument or obligation relating to the Stations' business and to which any of the Assets may be subject, (c) violate any law, statute, rule, regulation, order, injunction or decree of any federal, state or local governmental authority or agency applicable to Seller or to any of the Assets, or (d) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever on any of the Assets.

2.05. Licenses and Authorizations .

(a) As of the date of this Agreement, each party is the holder of the FCC Authorizations listed on Schedule 1.1(c). Each party has delivered to the other party true and complete copies of the FCC Authorizations. Such FCC Authorizations constitute all of the licenses and authorizations required under the Communications Act of 1934, as amended (the “Communications Act”), and the current rules, regulations and policies of the FCC for and/or used in the operation of the Stations as now operated. The FCC Authorizations were validly issued, are in full force and effect and are unimpaired by any act or omission of the current licensee, or its officers, directors, employees or agents. There is not now pending or to the knowledge of either party threatened any action by or before the FCC to revoke, cancel, rescind, modify or refuse to renew any of such FCC Authorizations other than proceedings of a rulemaking or legislative nature affecting the radio industry generally, and there is not now pending or to the knowledge of the current licensee threatened, issued or outstanding by or before the FCC, any investigation, Order to Show Cause, Notice of Violation, Notice of Apparent Liability or Notice of Forfeiture or complaint against the applicable licensee or any of its affiliates with respect to any of the Stations. In the event of any such action, or the filing or issuance of any such order, notice or complaint against SBC or Waitt, or such party’s learning of the threat thereof, such party shall notify the other party, within three business days, of the same in writing and shall take all reasonable measures, at its expense, to contest in good faith or seek removal or rescission of such action, order, notice or complaint. The Stations are operating in material compliance with the FCC Authorizations, the Communications Act and the current rules, regulations and policies of the FCC. All material reports, forms and statements required to be filed by the applicable party with the FCC with respect to the Stations since the grant of the last renewal of the FCC Authorizations have been filed and are complete and accurate. Neither party has reason to believe that the FCC Authorizations will not be renewed in the ordinary course.

(b) In addition to the FCC Authorizations listed on Schedule 1.1(c), Schedule 3.05(b) to this Agreement lists all other licenses, permits and authorizations that are held by the applicable party as of the date hereof that are required for the conduct of the Stations’ business operations, as presently conducted. All such licenses, permits and authorizations are in full force and effect with no material violations of any of them having occurred.

2.06. Condition and Adequacy of the Assets. The tangible assets included in the Assets are in normal operating condition and repair, ordinary wear and tear excepted, and are adequate and suitable in accordance with general industry practices for the purposes for which they are currently used and intended to be used except as would not have a Material Adverse Effect (defined below) taken in the aggregate. The Stations, each broadcast tower and all other items of transmitting and studio equipment included in the Assets (a) have been maintained in a manner consistent with generally accepted standards of good engineering practice, and (b) comply with, and will permit the Stations to operate in accordance with, the terms of the FCC Authorizations, the rules and regulations of the FCC (“FCC Rules”), and all other applicable requirements of law to the extent that any failure to comply could not have a Material Adverse

Effect upon the business, prospects, operations or condition (financial or other) of the Stations. (For purposes of this document, "Material Adverse Effect" shall mean any change prior to the Effective Date, or any change caused by Seller prior to the Closing Date, that would be deemed material for similarly situated stations (i) in the value of the Assets taken as a whole, (ii) in the revenues received by the Stations, (iii) in the audience ratings for the Stations or (iv) any combination of (i), (ii) or (iii)).

2.07. Title. Each respective party owns and has good and valid title to its properties, free and clear of all security interests, mortgages, pledges, conditional sales agreements, charges, liens and encumbrances, except for Permitted Liens.

(a) Schedule 1.1(f) lists all Real Estate included in the Assets owned for the operation of the Stations, excluding any real property owned by SBC or Waitt and used as their respective studio facilities, all of which will be the subject of leases. SBC and Waitt, as applicable, owns and has good and valid marketable title to such properties, free and clear of all security interests, mortgages, conditional sales agreements, charges, liens and encumbrances.

(b) Schedule 1.1(f) lists all Real Estate leased by the applicable party and used in the Stations' operation.

(c) Schedule 3.07(c) lists all material tangible personal property included in the Assets.

2.08. Call Letters; Intellectual Property. Schedule 1.1(d) to this Agreement sets forth a correct and complete list of all call letters, copyrights, trademarks, trade names, service marks, jingles, slogans, logos and patents that are included in the Assets (the "Rights"). The registrations (if any) for the Rights are valid, in good standing and uncontested. Each party possesses adequate rights, licenses or other authority to use all Rights necessary to conduct the business of the Stations as presently conducted. Neither party has received any notice with respect to any alleged infringement or unlawful or improper use of any Rights owned or alleged to be owned by others. No director, officer or employee of SBC or Waitt, as applicable has any interest in any Rights, all of which are free and clear of any lien, security interest, claim or encumbrance of any kind. Neither party has granted any outstanding licenses or other rights to any Rights, and has no knowledge of any infringement of any of the Rights.

2.09. Taxes. With respect to the Stations each party, (a) has filed, or caused to be filed, all federal, state and local tax returns required to be filed, and (b) has paid or made provisions for the payment of (i) all taxes due for the periods covered by such returns, except such accrued and unpaid taxes for which appropriate accruals have been made in the Financial Schedules in accordance with generally accepted accounting principles, and (ii) all deficiencies assessed as a result of any examination of such returns. No events have occurred with respect to the Stations which could impose on the other party any liability (as transferee or otherwise) for any taxes, penalties or interest due or to become due.

2.10. Instruments of Conveyance; Good Title. The instruments to be executed and delivered at the Closing, conveying the Assets, will transfer good and marketable title to the Assets free and clear of all liabilities, obligations and encumbrances, except as provided elsewhere in this Agreement.

2.11. Changes. Neither party has, with respect to the business of the Stations, mortgaged, pledged or subjected to a lien or any other encumbrance, any of the Assets, or sold or transferred any material asset used or useful in the business of the Stations.

2.12. Brokers. Except for Richard Chapin, who shall be paid by Waitt, there is no broker or finder or other person who would have any valid claim for a commission or brokerage in connection with this Agreement or the transactions contemplated hereby as a result of any agreement, understanding or action by either party.

2.13. Real Property. The present use by the Stations of the owned Real Estate and leased Real Estate complies with applicable zoning ordinances and other governmental regulations. There is no default under any such real property leases and neither party has received or given written notice of any default thereunder from or to any of the other parties thereto. All improvements, including without limitation the Stations' towers and transmitters, are wholly within the lot limits of the owned Real Estate and do not encroach on any adjoining premises. Both parties shall use their best efforts to obtain valid and binding third-party consents from all required third parties to the Real Estate leases to be conveyed and assigned as part of the Assets, so as to ensure that the receiving party will enjoy all of the privileges of the other party. Subject to obtaining of all necessary third-party consents, both parties have full legal power and authority to assign its rights under the Real Estate leases in accordance with this Agreement, and such assignment shall not affect the validity, enforceability and continuity of any of the Real Estate leases. The foregoing notwithstanding, neither party will be obligated to consummate the transactions contemplated hereby unless the other party is able by the Closing Date to provide written consents for assignment of all Real Estate leases currently utilized by the Stations in a form reasonably satisfactory to the receiving party and upon terms and conditions no less favorable than those presently in effect, unless the other party consents in writing to an assignment upon less favorable terms and conditions.

2.14. Environment .

(a) For purposes of this Section 3.14, the following terms shall have the meanings given below:

*"Environmental Laws"* means any federal, state and local laws, statutes, ordinances, rules, regulations and the like, as well as common law, relating to protections of human health or the environment, relating to Hazardous Materials, relating to liability for or cost of Remediation or prevention of Releases or relating to liability for or costs of other actual or threatened danger to human health or the environment.

*"Hazardous Materials"* means (a) toxic substance or hazardous waste, substance or related material or any pollutant or contaminant; (b) radon gas, asbestos in any form

which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contains dielectric fluid containing levels of polychlorinated biphenyls in excess of federal, state or local safety guidelines, whichever are more stringent, or any petroleum product; (c) any substance, gas, material or chemical which is or may be defined as or included in the definition of “hazardous substance,” “toxic substances,” “hazardous materials,” “hazardous wastes” or words of similar import under any Environmental Laws; and (d) any other chemical material, gas or substance the exposure to or release of which is prohibited, limited or regulated by any governmental entity or authority that asserts jurisdiction over the Real Estate or the operations or activity at the Real Estate, or any chemical, material, gas or substance that does pose a hazard to the health and/or safety of the occupants of the Real Estate or the owners and/or occupants of property adjacent to or surrounding the Real Estate.

“*Release*” means any presence, release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials.

“*Remediation*” means any response, remedial, removal, or corrective action, any activity to cleanup, detoxify, decontaminate, contain or otherwise remediate any Hazardous Material, any actions to prevent, cure or mitigate any Release, any action to comply with any Environmental Laws or with any permits issued pursuant thereto, any inspection, investigation, study, monitoring, assessment, audit, sampling and testing, laboratory or other analysis or any evaluation relating to any Hazardous Materials.

(b) No Release of Hazardous Materials, as defined under existing Environmental Laws, has occurred, is presently occurring or is anticipated to occur in violation of any Environmental Law. Use of the Assets does not violate any Environmental Law, occupational safety and health or other applicable law. There has been no unlawful disposal of any Hazardous Materials in a manner which has caused, or could cause, any liability under any Environmental Law, and the technical equipment included in the Assets does not contain any polychlorinated biphenyls (“PCBs”) that are required by law to be removed and, if any equipment does contain such PCBs, that such equipment is stored and maintained in compliance with applicable law. Both parties have complied with all existing Environmental Laws, applicable to the Stations and its operations, including, but not limited to, the FCC’s guidelines regarding RF radiation.

(c) If either party learns between the date of this Agreement and the Closing Date that such party is in breach of any representation and warranty set forth in this Section 3.14, such party shall notify the other party, within three business days, and begin Remediation promptly and use reasonable efforts to complete such Remediation before the Closing Date. If such Remediation is likely to cost in excess of \$50,000, the remediating party may elect not to perform Remediation. However, in such event the other party may require the remediating party to proceed to Closing and the other party shall receive a credit in an amount equal to the actual cost of such Remediation up to \$50,000. If the receiving party does not require the remediating party to close, this

Agreement shall be terminated and neither party shall have any liability to the other party as a result of such termination.

2.15. Employee Benefit Plans.

(a) Except as set forth on Schedule 3.15, there are no employee benefit or compensation plans or arrangements, including “employee benefit plans,” as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and including arrangements relating to former employees, such as retiree medical plans or life insurance, maintained by either party (the “Benefit Plans”). Each respective party has complied with the terms of all Benefit Plans, and no default exists with respect to the obligations under such Benefit Plans.

(b) All Benefit Plans are in compliance with the applicable provisions of ERISA, the Internal Revenue Code of 1986 and all other applicable laws. Each of the Benefit Plans which is intended to meet the requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended (the “Code”), has been determined by the Internal Revenue Service and continues to be “qualified” within the meaning of such Section of the Code. There have not been any “prohibited transactions,” as such term is defined in Section 4975 of the Code or Section 406 of ERISA, involving the Benefit Plans. This transaction will not result in any withdrawal liability under any multiemployer plan. Neither party has engaged in any transaction described in Section 4069 of ERISA.

(c) No notice of a “reportable event,” within the meaning of Section 4043 of ERISA (for which the 30-day reporting requirement has not been waived) has been required to be filed for any Benefit Plan within the 12-month period ending on the date hereof except as would not be reasonably likely to have a Material Adverse Effect.

2.16. Insurance. The insurable properties of the Stations being transferred hereunder, including the Assets, and the conduct of the business and operations of the Stations are, and until the Closing Date will be, adequately insured by reputable insurers, against all risks usually insured against by persons owning or operating similar properties or businesses. No state of facts exists and no event has occurred which could form the basis of any claim against or relating to the Stations or the Assets which might substantially increase the insurance premiums payable under or result in cancellation or non-renewal of such insurance policies. All such policies are in full force and effect.

2.17 Financial Information. Each party has provided adequate financial information, and if reasonably requested financial statements which do not contain any material misrepresentations or omissions, adequate in form and substance to determine the value and cash-flow of the Stations being traded.

2.18. Full Disclosure. All of the information provided herein or in the disclosure schedules and exhibits to this Agreement is true, correct and complete in all material respects, and no representation, warranty or statement made in or pursuant to this Agreement, the disclosure schedules or exhibits contains any untrue statement of a material fact or omits or will

omit to state any material fact necessary to make such representation, warranty or statement not misleading.

### **ARTICLE 3: Programming.**

3.1 SBC and Waitt Radio shall enter into that certain Letter Agreement Regarding Programming whereby Waitt shall provide substantially all of the programming for the Waitt Stations after the Closing Date pursuant to the terms and conditions the Programming Agreement. Waitt Radio and SBC shall enter into a new option agreement pursuant to which SBC shall grant to Waitt Radio the right to purchase the assets used and useful in the business and operation of the Waitt Stations and shall enter into an amendment to modify the existing Option Agreement to remove the grant and proportionate amount of the exercise price with respect to the SBC Stations. SBC shall, at Closing, pay to Waitt Radio the amount of ONE MILLION SIX HUNDRED SIXTY THOUSAND EIGHT HUNDRED DOLLARS (\$1,660,800.00) which the parties agree is the proportionate amount of the Option Price paid to SBC for Waitt Radio's Option to purchase the SBC Stations as such payment is required to be returned pursuant to Section 5(c) of the Option Agreement and that certain Partial Option Termination Agreement by and between SBC and Waitt Radio and dated as of the date hereof (the "Partial Option Termination Agreement").

### **ARTICLE 4: Conditions to the Obligations of Both Parties**

The obligations of the parties under this Agreement are subject to the fulfillment of the following conditions prior to or on the Closing Date:

4.1 Representations, Warranties and Covenants. Each of the representations and warranties of the parties contained in this Agreement shall have been true and correct as of the date when made and shall be deemed to be made again as of the date of Closing, and shall then be true and correct, except to the extent changes are permitted or contemplated pursuant to this Agreement.

4.2 FCC Consents. The FCC Consents shall have been issued by the FCC.

4.3 Deliveries. Each party shall have complied with each and every one of its obligations set forth in Section 5.1.

4.4 Required Consents. Each party shall have obtained all of the required consents.

4.5 Related Transactions. The FCC shall have granted its consent to the transaction between Waitt and Three Eagles (the "Three Eagles FCC Consent") and that transaction shall be scheduled for Closing on the Closing Date (the "Three Eagles Closing").

### **ARTICLE 5: Items to be Delivered at the Closing**

5.1 Deliveries by the Parties. At the Closing, each party shall deliver to the other the following fully executed documents:

(a) bills of sale, certificates of title, endorsements, assignments, general warranty deeds and other good and sufficient instruments of sale, conveyance, transfer and assignment, in form and substance satisfactory to each party, sufficient to exchange, transfer and assign the Stations Assets to each party free and clear of liens (other than permitted encumbrances);

(b) the required Consents and any other consents obtained by the parties under Section 4.4.

(c) certificate of the respective secretaries of SBC and Waitt with copies of resolutions authorizing the execution, delivery and performance by each party of this Agreement, which shall be in full force and effect;

(d) an instrument or instruments of assignment and assumption of any assumed obligations;

#### **ARTICLE 6: Survival and Indemnification**

6.1 Survival. All representations, warranties, covenants and agreements contained in this Agreement, or in any certificate, agreement, or other document or instrument, delivered pursuant hereto, shall survive the closing for a period of one (1) year.

#### **ARTICLE 7: Miscellaneous**

7.1 Termination. This Agreement may be terminated at any time prior to closing for any of the following reasons:

(a) by the mutual consent of the parties;

(b) by any party hereto if the FCC has denied the approvals contemplated by this Agreement in an order which has become final and beyond any possibility of reconsideration or review by the FCC, including without limitation the Three Eagles FCC Consent;

(c) by either party if the closing has not taken place by July 26, 2004;

(d) by either party if on the Closing Date the other party has failed to satisfy any of the conditions set forth in ARTICLE 5;

(e) by either party if the other has failed to cure a material breach of any of its representations, warranties or covenants under this Agreement within fifteen (15) calendar days after it receives notice from the other party of such breach;

(f) by the non-breaching party, in its reasonable discretion, in the event of a material breach of the Programming Agreement by the other party, which breach is beyond any applicable notice and cure periods or upon the termination of Programming Agreement; and

(g) by either party if, for any reason, the Three Eagles Closing does not occur by July 26, 2004 or the Three Eagles Agreement is terminated.

7.2 Damages. In the event of a breach by either party of any representation, warranty, covenant or agreement under this Agreement or either party's failure to consummate this Agreement without just cause, then in such event, the non-defaulting party shall be entitled to all remedies which to which it may be entitled at law or equity, including specific performances and damages.

7.3 Expenses. Except as set forth in the Programming Agreement or this Agreement, each party agrees to bear all of its own expenses incurred in connection with the transactions contemplated by this Agreement. Waitt shall be responsible for FCC filing fees relating to the assignment of licenses attributable to the Stations being exchanged, and for the filing, recordation fees and other fees incurred in connection with the transfer of title or other assets to such parties and shall reimburse SBC for all reasonable legal and out of pocket accounting fees and expenses incurred by SBC in connection with this Agreement and the transactions contemplated hereunder.

7.4 Further Assurances. From time to time prior to and after closing, each party hereto will execute all such instruments and take all such actions as any other party shall reasonably request, without payment of further consideration, in connection with carrying out and effectuating the intent and purpose hereof and all transactions contemplated by this Agreement, including without limitation, the execution and delivery of any and all confirmatory and other instruments in addition to those to be delivered at closing, and any and all actions which may reasonably be necessary to complete the transactions contemplated hereby. The parties shall cooperate fully with each other and with their respective counsel and accountants in connection with any steps required to be taken as part of their respective obligations under this Agreement.

7.5 Public Announcements. Prior to closing, neither party shall, without the approval of the other party, make any press release or other public announcement concerning the transactions contemplated by this Agreement, except to announce that said transaction has been entered into and to the extent that each party is obligated by law. The parties agree to use their best efforts to cause a mutually agreeable release or announcement to be issued.

7.6 Risk of Loss. The risk of loss, damage or destruction to any of the Station Assets shall be borne by the party owning said Station to the date of closing; provided, however, each party shall bear the risk of loss, damage or destruction in the event that it is caused by the intentional or willful misconduct or gross negligence of such party or its officers, directors, employees or agents, and it shall be the responsibility of each respective party to repair or cause to be repaired and to restore its Station to its condition prior to any such loss, damage or

destruction. In the event of any such loss, damage or destruction, the proceeds of any claim for any loss payable under any insurance policy with respect thereto, shall be used to repair, replace or restore the Station to its former condition, subject to the conditions stated below. In the event of any loss or damage to any of the Stations, the parties shall notify the other thereof in writing immediately. Such notice shall specify with particularity the loss or damage incurred, the cause thereof and the insurance coverage. In the event that the Station is not completely repaired, replaced or restored on or before the scheduled Closing Date, the party to acquire such Station at closing shall have the following options:

(a) may elect to postpone closing until such time as the Station has been completely repaired, replaced and restored (subject to the Three Eagles Closing), or

(b) may elect to consummate the closing and accept the Station in its then condition, in which event the transferring party shall pay to the acquiring party all proceeds of insurance and assign to the acquiring party the right to any unpaid proceeds, or

(c) terminate this agreement.

#### **ARTICLE 8: General Provisions**

8.1 Successors and Assigns; Third Party Claims. This Agreement shall extend to and be binding upon the respective successors and assigns of the parties hereto. The rights and obligations under this Agreement may not be assigned without the prior written consent of the other party hereto. No person or entity shall be deemed to be a third party beneficiary to this Agreement and Waitt shall not assign or permit any claims to be brought against SBC by a third party purchaser of the SBC Stations or their related Assets.

8.2 Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have duly made and received when personally served, facsimile number, or certified mail, return receipt, addressed as follows:

If to SBC                      Dean Sorenson, President  
Sorenson Broadcasting Corp.  
600 N. Kiwanis Avenue  
Sioux Falls, SD 57104  
Facsimile No.: (605) 338-0236

If to Waitt                    Steven W. Seline, Vice Chairman and Vice President  
Waitt Radio, Inc.  
1125 South 103<sup>rd</sup> St., Suite 200  
Omaha, NE 68124  
402.330.2445 (facsimile number)

Either party may change the address to which communication may be sent by giving notice of such change of address in conformity with the provisions of this Section providing for the giving of notice.

8.3 Governing Law. This Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed in accordance with the laws of the State of South Dakota.

8.4 Entire Agreement. This Agreement constitutes the full and entire understanding and agreement between the parties with regard to the subject matter hereof, and supersedes all prior oral agreements, understandings, inducements or conditions, express or implied, oral or written, relating to the specific subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of trade inconsistent with any of the terms hereof. This Agreement has been prepared by all of the parties hereto, and no inference of ambiguity against the drafter of a document therefore applies against any party hereto.

8.5 1031 Assignment. Each of SBC and Waitt, as applicable, are permitted if reasonably required, to assign to a qualified intermediary, pursuant to a form of assignment described in Treas. Regs. §1.1031(k)-1(g)(4)(iv), their respective rights under this Agreement to acquire the Assets to be exchanged between the parties. The assignment shall provide for such assigning party to deliver title to and ownership of the exchanged property directly to the other party without the need for the qualified intermediary to take title thereto. Both SBC and Waitt, are hereby notified and consent to such assignment. An assignment pursuant to this Section shall not prejudice enforcement of the rights, obligations and responsibilities by one party against the other.

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

SIGNATURE PAGE TO AGREEMENT FOR LIKE-KIND EXCHANGE OF ASSETS

SORENSEN BROADCASTING CORPN., a South  
Dakota corporation

By \_\_\_\_\_  
Dean Sorenson, President

WMMP, LLC., a South Dakota limited liability  
company

By: Waitt Radio, Inc., a South Dakota corporation,  
its sole member

By \_\_\_\_\_  
Steven W. Seline  
Vice Chairman and Vice President