

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement, dated as of \_\_\_\_\_, 2010 (the "Agreement"), by and between Big Island Broadcasting, Inc., a Louisiana corporation (hereinafter be referred to as "Seller"), and Hochman Hawaii Five, Inc., a Hawaii corporation ("Buyer").

### Recitals

**WHEREAS**, Seller holds a license issued by the Federal Communications Commission ("*FCC*") for an FM broadcast Station on Channel 293C, Haiku, Hawaii, FCC Facility ID No. 164100 (the "*Station*"); and

**WHEREAS**, Seller desires to sell and assign to Buyer and Buyer desires to acquire and assume all of the assets used or useful in connection with the operation of the Station, whether existing on the date hereof or acquired hereafter, on the terms and subject to the conditions set forth in this Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the parties agree as follows:

### Agreement

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1       **Sale and Transfer of Assets.** Subject to and in reliance upon the terms and conditions set forth herein, Seller will sell, assign, transfer and deliver to Buyer the Station Assets (collectively referred to as "*The Assets*"), free and clear of any debts, liens, or encumbrances of any kind or nature, as defined, below:

1.1       **Licenses.** All construction permits, licenses and authorizations issued by any governmental or regulatory agency including without limitation, the Federal Communications Commission (the "*FCC*") for the operation of Station (the "*FCC Licenses*"), together with all auxiliary licenses for studio transmitter links and remote pick-ups, which are transferable or assignable, if any, as are used or useful in the operation of, or in connection with the operation of, the Station, as listed on Schedule 1.1;

1.2       **Leased Property** Seller's right and interest in and to the leased real property to be used as the tower and transmitter site of the Station and any amendments thereto made between the date of execution of this Agreement and the Closing Date that Buyer expressly approves in writing to assume, including but not limited to any easements, rights of ingress and egress, and rights of way associated

therewith, and the buildings, towers, and fixtures located thereon (the “Real Property”). Copies of said leases are attached hereto in Schedule 1.2;

1.3 **Tangible Personal Property.** All equipment and supplies, inventory, spare parts, and other tangible personal property of every kind and description to be owned by Seller and used or useful in the conduct of the business and operation of the Station, together with any replacements thereof and additions made thereto (the “Personal Property”). A list of all such tangible property is attached hereto in Schedule 1.3;

1.4 **Records.** All files, records, books of account, and logs relating to the Station, including, without limitation, the Station’s public inspection files, filings with the FCC related to the Station, invoices, statements, technical information and engineering data relating to the Station Facilities, filings with the FCC and copies of all written Contracts to be assigned hereunder;

1.5 **Call Letters.** All right, title and interest of the Seller in and to the use of the call letters for the Station (the “Call Letters”);

1.6 **Intangible Assets.** All goodwill, copyrights, trademarks or other similar rights, if any, which the Seller may have acquired or used in the operation of the Station together with all logs, books, files, data, software, FCC and other governmental applications, equipment manuals and warranties, and other records relating to the full on-air broadcast operations of the Station, including without limitation all electronic data processing files and systems, FCC filings and all records required by the FCC to be kept by the Station as set forth on Schedule 1.6 (the “Intangible Assets”);

1.7 **Excluded Assets.** The Assets to be transferred hereunder shall not, however, include any of Seller’s cash, bank accounts, investments, deposits, books and records pertaining to company organization, contracts of insurance (including the cash surrender value thereof, 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), 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 Station specifically, and any and all liabilities with respect thereto all of which shall remain the property of Seller (the “Excluded Assets”).

1.8 **Schedules.** Seller is delivering herewith to Buyer the Schedules required by this Agreement in a form reasonably acceptable to Buyer. Each such Schedule constitutes the joint and several representations, warranties and obligations of the Seller and shall be accurate, true and correct as of the date of this Agreement and accurate, true and correct as of the Closing Date except as updated by Seller in writing prior to the Closing. Each Schedule shall be accompanied by a copy of each document referred to therein. Between the date of the Agreement and the Closing Date, Seller shall, from time to time, promptly update the Schedules so as to maintain the accuracy of the

information contained therein, and shall promptly supply to Buyer copies of any new documents referenced in such Schedules.

## **2 Purchase Price.**

### **2.1 Purchase Price.**

In consideration for all of the Assets to be sold and bought hereunder pursuant to Section 1, the Purchase Price for the Station Assets shall be Four Hundred Fifty Thousand Dollars (\$450,000.00), paid to Seller pursuant to the terms of a Promissory Note, the form of which is attached hereto in Schedule 2.1. The obligations of Buyer under the Promissory Note shall be secured in accordance with the Pledge Agreement and Security Agreement attached hereto in Schedule 2.1 and executed by Buyer at Closing.

As additional consideration, Buyer shall deliver to the Seller certificates of common voting stock representing twenty-five percent (25%) of the equity of Buyer's corporation. The stock delivered to Seller shall include preemptive rights and shall be restricted only to provide Buyer with a right of first refusal should Seller wish to sell its stock in Buyer's corporation.

**2.2 Allocation of Purchase Price.** Buyer and Seller will allocate the Purchase Price and other consideration received by Seller from Buyer in accordance with Schedule 2.2. Buyer and Seller each further agrees to file its federal income tax returns and its other tax returns reflecting such allocation.

### **2.3 Intentionally Left Blank**

**2.4 FCC Litigation.** On or about March 31, 2008, Big D Consulting, Inc. filed with the FCC a Petition for Reconsideration of the FCC staff's action granting the license application of Big Island Broadcasting, Inc. It shall be a condition of closing that the Petition for Reconsideration be dismissed prior to consummation of this transaction and that no litigation of any kind be pending at the time of Closing. Any legal or engineering fees or expenses associated with this litigation shall be the sole responsibility of Big Island Broadcasting, Inc. whether incurred prior to or after the consummation of this transaction. Any settlement payments made to Big Island Broadcasting, Inc., with respect to the Station, shall be applied toward the purchase price of the Station effectively reducing the purchase price by the amount of such settlement payment. Seller shall not enter into any settlement without the advice and consent of Buyer.

Should the Petition for Reconsideration, referenced above, not be dismissed prior to Closing of this transaction, the Parties agree that Closing may proceed provided Seller agrees to modify the Promissory Note, attached hereto in Schedule 2.1, to permit Buyer to continue interest-only payments until the

Petition for Reconsideration is dismissed. In the event the Petition for Reconsideration has not been dismissed by the FCC during the first year of Buyer's payment obligation, with the FCC's decision on the matter favorable to Seller, the Parties agree to extend the interest only feature of the Promissory Note until the FCC dismisses that Petition for Reconsideration with the FCC's decision on the matter favorable to Seller. Should the FCC's decision regarding the Petition for Reconsideration be unfavorable to Seller and the FCC license for the Station revoked, the Promissory Note shall be cancelled by the Holder and the obligation of Buyer shall be terminated, without recourse, on the date that the FCC's decision becomes effective. In such an event, Buyer shall not be entitled to any reimbursement for any expense including any monies spent on interest payments pursuant to the Promissory Note. Should the FCC's decision on the Petition for Reconsideration not result in revocation of the Station's license but, instead, require an FCC hearing, Seller shall pay any necessary legal costs associated with defending the Station's license at such hearing. During the pendency of such litigation, the Promissory Note shall remain in full force and effect. If after such hearing, the FCC revokes the license, the Promissory Note will be cancelled as outlined in this Section. Any fines or forfeitures imposed on the Station as a result of the Petition to Deny shall be paid for by Seller. Any conflict between provisions of the attached Promissory Note and this Asset Purchase Agreement shall be resolved by the language this Asset Purchase Agreement.

3      **No Assumption of Liabilities.** Buyer shall not assume and shall not be obligated to pay any liabilities or obligations of Seller unless specifically agreed to. A list on those liabilities to be assumed by Buyer is attached hereto in Schedule 3. Upon assumption by Buyer of the Assigned Contracts, if any, Buyer shall be entitled to all of Seller's rights and benefits thereunder and shall relieve Seller of its obligations to perform the same after the Closing Date.

4      **Seller's Representations and Warranties.** The following representations and warranties shall survive for three years from the Closing Date. Seller represents and warrants to Buyer as of the date hereof and as of the Closing Date, with respect to the Station, as follows:

4.1      **Formation, Standing and Power.** Seller, a Louisiana corporation, has all necessary power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby and represents and warrants that it is the owner of all of the Assets described in this agreement. Seller will, by the Closing Date, deliver to Buyer documentation reasonably requested by Buyer pertaining to Seller's authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby.

4.2      **Authority for Transaction.** The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by Seller and no other proceedings on the part of Seller are

necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency or other laws affecting generally the enforcement of creditors' rights or the application of principles of equity.

4.3 **Licenses and Permits.** Schedule 1.1 contains a true and complete list of the licenses and permits, including the FCC Station Authorizations, issued in connection with the Station, including their expiration dates. Seller has delivered to Buyer true and complete copies of such licenses and permits. The Station Authorizations and other licenses, permits and authorizations listed in Schedule 1.1 are validly held by Seller, and are in full force and effect. Seller, on the Closing Date, will be the holder of regular and unconditional FCC license(s) and license(s) issued by the Commission for the operation of Station and all pertinent auxiliary stations, if any, which license(s) will not be subject to any material adverse conditions, litigation or reporting conditions. Seller has all permits, licenses, franchises and other authorizations necessary to, and has materially complied with all laws applicable to, the conduct of the Station's business in the manner and in the areas in which such business is presently being conducted and all such permits, licenses, franchises and authorizations are valid and in full force and effect. Seller has not engaged in any activity or failed to perform any required act which would cause revocation or suspension of any such permits, licenses, franchises or authorizations, and no complaint, action or proceeding looking to or contemplating the revocation or suspension of any thereof is pending or, to the knowledge of Seller, threatened, at the time of Closing. Further, on the Closing Date, the FCC Licenses and Permits will be in good standing, without adverse condition, the Station will have full operating authority under its licenses and permits, all FCC requirements for such authority will have been met, and there will be no uncorrected FCC violations, unpaid FCC or other regulatory fees, notices or unsatisfied FCC inquiries or other litigation, informal objections or petitions for reconsideration or appeals regarding any FCC action regarding the license(s) of Station, other than as disclosed herein. Buyer shall pay all FCC filing fees associated with this transaction.

4.4 **Contracts.** Seller shall deliver to Buyer true and complete copies of the Tower Site Lease, all written contracts agreed to be assumed by Buyer and true and complete memoranda of all oral contracts agreed to be assumed by Buyer, including any amendments and other modifications to such contracts ("Assumed Contracts). The Tower Site Lease and Assumed Contracts shall constitute valid and binding obligations of Seller, and, to the best of Seller's knowledge, of all other parties thereto, and shall be in full force and effect as of the date hereof. As of the closing date and throughout the term of the Time Brokerage Agreement and the Asset Purchase Agreement, Seller shall not be in default under the Assumed Contracts with the exception of the Tower Site Lease and, to the best of Seller's knowledge, the other parties to such Tower Site Lease and Assumed Contracts are not in default thereunder. Seller has not received or given written notice of any default thereunder from or to any of the other parties thereto. Except as disclosed on Schedule 1.2, at Closing, Seller shall have all requisite power and authority to assign its rights under the Tower Site Lease and Assumed Contracts to Buyer

in accordance with this Agreement on terms and conditions no less favorable than those in effect on the date hereof, and such assignment will not affect the validity, enforceability or continuity of any such Tower Site Lease or Assumed Contracts.

4.5 **Taxes.** Seller has duly, timely and in the required manner filed all federal, state, local and foreign income, franchise, sales, use, property, excise, and other tax returns and forms required to be filed, and has paid in full or discharged all taxes, assessments, excises, interest, penalties, deficiencies and losses required to be paid. As of the time of filing, such returns were true, complete and correct in all material respects. There are no governmental investigations or other legal, administrative, or tax proceedings pending, or to the best of Seller's knowledge, threatened pursuant to which Seller is or could be made liable for any taxes, penalties, interest, or other charges, the liability for which could extend to Buyer as transferee of the Station, or could result in a Lien on any of the Station Assets, and no event has occurred that could impose on Buyer any transferee liability for any taxes, penalties, or interest due or to become due from Seller.

4.6 **Bankruptcy.** No insolvency proceedings of any character, including without limitation, bankruptcy, receivership, reorganization, composition or arrangement with creditors, voluntary or involuntary, affecting Seller or any of the Station Assets, are pending or, to the best of Seller's knowledge, threatened, and Seller has not made any assignment for the benefit of creditors or taken any action which would constitute the basis for the institution of such insolvency proceedings.

4.7 **Compliance With Laws.** Seller is in compliance with all laws, regulations and governmental orders applicable to the construction and operation of the Station. Seller is not in default or in violation of any law, regulation, court order, or order of any federal, state, municipal, foreign or other government department, board, bureau, agency, or instrumentality, wherever located, that would materially adversely affect operation of the Station, Station Assets, or the Station Authorizations, including but not limited to state and federal environmental laws and regulations. There is no pending or threatened investigation, audit, review or other examination of the Station, Station Assets or the Station Authorizations and Seller is not subject to any order, agreement, memorandum of understanding or other regulatory enforcement action or proceeding with or by the FCC or any other federal or state governmental agency having supervisory or regulatory authority with respect to the Station, Station Assets, or the Station Authorizations, nor is Seller aware of any basis for any such investigation or audit.

4.8 **Legal Proceedings, Etc.** Except for the litigation referenced in Section 2.4, no litigation, court or administrative proceeding is pending or, so far as is known to the Seller, threatened against Seller relating to the Station or any one of the Assets to be conveyed hereunder which would affect Buyer's enjoyment of the Assets, or which would hinder or prevent the consummation of the transactions contemplated by this Agreement, and Seller does not know, or have reasonable grounds to know, of any basis for any such possible action.

#### 4.9 **Intentionally Left Blank**

4.10 **No Conflict.** Neither the execution and delivery of this Agreement by Seller, nor compliance by Seller with any of the provisions hereof, nor the consummation of the transactions contemplated hereby, will:

(a) result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, last will and testament, encumbrance or other instrument or obligation to which Seller or any of Seller's officers, directors or shareholders, is a party or by which Seller or any of Seller's Assets may be bound; or

(b) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Seller, or any of Seller's officers, directors or shareholders, or any of the Station Assets.

Except for the approval of the FCC and such consents and/or notices as are necessary for assignment of the Assigned Contracts, no consent, waiver or approval by, notice to or filing with any person or entity is required in connection with the execution and delivery of this Agreement by Seller, compliance by Seller with any of the provisions hereof or the consummation of the transactions contemplated hereby.

4.11 **Liabilities.** After payment from the proceeds disbursed on the Closing Date, all of Seller's liabilities, except for those liabilities arising on or after the Closing Date relating to the Assumed Contracts, shall have been fully paid and discharged and no creditors of Seller, including barter creditors, if any, shall have any claim on the Assets for payment of such liabilities with the exception of the debt owed to Cavaness management by Seller

4.12 **No Misleading Statements.** The representations and warranties of Seller herein, or in any Schedule hereto, do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained herein or therein not materially misleading.

4.13 **Broker.** Seller has incurred and is liable for a broker's commission to Richard J. Hayes, Jr. in the amount of Twenty Four Thousand Dollars (\$24,000.00) relating to the transactions contemplated under this Agreement, which will be paid by Seller at Closing. Buyer has agreed to pay Eighteen Thousand Dollars (\$18,000.00) of the total amount due to the broker. Buyer and Seller agree that Seller shall pay the broker's commission, in full, at Closing and that Buyer shall repay Seller \$3,000.00 per month, for six months, commencing one month after the Closing to reimburse Seller. Seller agrees to indemnify and hold Buyer harmless from any other claims for brokerage fees, finder's fees or commissions asserted by any person acting on Seller's behalf in connection with this transaction.

#### **4.14 Environmental Matters.**

(a) Seller is not aware, nor has reasonable grounds to suspect, that any party has a basis for any possible action concerning the environment, public health and safety and employee health and safety.

(b) Seller has not received written notification that it is a potentially responsible party under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as a result of acts or omissions on or in any manner affecting the Land. Seller has not received written notification from any federal or local government under any similar provisions of federal or local law.

#### **4.15 Indebtedness to Cavaness Management LLC**

Seller discloses that it is indebted to Cavaness Management, LLC, ("Cavaness") a Texas Limited Liability Company, and that indebtedness is secured by a stock pledge agreement whereby Cavaness holds the stock of Seller. Cavaness has fully reviewed the terms and conditions of this Agreement and the Time Brokerage Agreement and all of the schedules and exhibits associated with each of those documents, and, as evidenced by its signature on this document, approves of the Time Brokerage Agreement and this Agreement, and affirmatively states that these agreements do not violate any agreements of any nature between Seller and Cavaness.

**4.16 Approval of Agreements.** Lydia Ducote Cavaness, the widow of the late Roger Cavaness attests that she has fully reviewed the terms and conditions of this Agreement including its Schedules and Exhibits and has fully reviewed the Time Brokerage Agreement and its Schedules and Exhibits and approves of the Time Brokerage Agreement and this Agreement.

**5 Buyer's Representations and Warranties.** The following representations and warranties shall survive for one (1) year from the Closing Date. The Buyer represents and warrants to Seller, as of the date hereof and as of the Closing Date, as follows:

**5.1 Buyer's Qualifications.** Buyer knows of no fact or circumstance which would, under the federal antitrust laws, the Communications Act of 1934, as amended, or the rules, regulations, and policies of the FCC, disqualify or preclude Buyer from being approved as an assignee of the Licenses. Should Buyer become aware of any such fact or circumstance, it will promptly inform Seller and Buyer will use its best efforts to remove any such disqualification or preclusion. Buyer will not take any action that Buyer knows, or has reason to believe, would result in such disqualification. There are no facts which, under the Communications Act of 1934, as amended, or the rules, regulations and policies of the FCC, or the antitrust policies as applied to the broadcasting industry by the Federal Trade Commission and the U.S. Department of



Justice, would delay the consummation of the transactions contemplated by this Agreement. Buyer has no reason to believe that the Assignment Application contemplated by this Agreement might be challenged by any governmental agency or third party or might not be granted by the FCC in due ordinary course. To Buyer's knowledge, there are no proceedings, complaints, notices of forfeiture, claims, or investigations pending or threatened against Buyer or any principal, officer, director, or owner of Buyer that would materially impair the qualification of Buyer to assume the FCC Licenses or which would materially impede Buyer's ability to prosecute FCC applications or seek the grant of the FCC Consents.

**5.2 Formation, Standing and Power.** Buyer is duly formed, validly existing and in good standing under the laws of the State of Hawaii. Buyer has all necessary power and authority to execute and deliver this Agreement, to comply with the provisions hereof and to consummate the transactions contemplated hereby.

**5.3 Authority for Transaction.** Buyer's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby have been duly and validly authorized by all necessary action on the part of Buyer, and this Agreement is valid and binding upon Buyer in accordance with its terms.

**5.4 No Conflict.** Neither the execution and delivery of this Agreement by Buyer, nor compliance by Buyer with any of the provisions hereof, nor the consummation of the transactions contemplated hereby will:

(a) conflict with or result in a breach of any provision of the governing documents of any entity named as Buyer herein;

(b) result in a default, or give rise to any right of termination, cancellation or acceleration, under any term, condition or provision of any contract, encumbrance or other instrument or obligation to which Buyer is a party or by which it or any of its properties or assets may be bound; or

(c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Buyer or any of its properties or assets.

Except for the approval of the FCC, no consent, waiver or approval by, notice to or filing with any person or entity is required in connection with the execution and delivery of this Agreement by Buyer, compliance by Buyer with any of the provisions hereof or the consummation of the transactions contemplated hereby.

**5.5 Legal Proceedings, Etc.** Except as noted in Section 2.3, there is no legal, equitable, administrative or arbitration action, suit, proceeding or known investigation pending or, to Buyer's knowledge, threatened against or affecting Buyer or any of its assets which, if adversely determined, would adversely affect the ability of Buyer to consummate the transactions contemplated hereby.

5.6 **No Misleading Statements.** The representations and warranties of Buyer herein do not contain any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements contained herein or therein not materially misleading.

5.7 **Broker.** Seller has incurred and is liable for a broker's commission to Richard J. Hayes, Jr., in the amount of Twenty Four Thousand Dollars (\$24,000.00), relating to the transactions contemplated under this Agreement, which will be paid by Seller at Closing pursuant to Section 4.13. Buyer agrees to indemnify and hold Seller harmless from any other claims for brokerage fees, finder's fees or commissions asserted by any person acting on Buyer's behalf in connection with this.

5.8 **Financial Qualifications.** Buyer is financially qualified to consummate this transaction and has funds available to consummate the sale.

## 6 **Seller's Covenants.**

### 6.1 **Indemnification.**

(a) Except as provided in Section 11 of this Agreement the sole and exclusive remedy which Buyer shall have against Seller under this Agreement after the Closing Date shall be the right to proceed for indemnification in the manner and only to the extent provided by this Section 6. Seller hereby indemnifies Buyer and holds it and its agents, successors and assigns harmless, with respect to demands for indemnification asserted by Buyer within six (6) years after the Closing Date from, against and in respect of:

(1) all liabilities, obligations, claims against and contracts of Seller of every kind and nature whatsoever, at any time existing or asserted, whether or not accrued, whether fixed, contingent or otherwise, whether known or unknown, and whether or not recorded on the books and records of Seller, arising out of or by reason of this or any other transaction or event occurring prior to the Closing, which have not been assumed by Buyer;

(2) all losses, damages and deficiencies resulting from any failure or breach of any representation or warranty, or any breach or nonfulfillment of any covenant or agreement, of Seller made in this Agreement;

(3) all actions, suits, proceedings, claims, demands, assessments, judgments, fines, amounts paid in settlement, costs and expenses (including reasonable attorneys' fees and expenses) related to the foregoing;

(4) all actions, suits, proceedings, claims, demands, assessments, judgments, fines, amounts paid in settlement, costs and expenses (including reasonable attorneys' fees and expenses) incident to any of the foregoing; and

(5) any claims of any nature asserted by the heirs of the late Roger Cavaness and claims of any nature asserted by Cavaness Management, LLC.

(b) If a demand for indemnification arises out of a claim made against Buyer by a person not a party to this Agreement or affiliated with a party to this Agreement (a "Third Party Claim"), Buyer shall give prompt notice thereof to Seller, stating in reasonable detail the nature of the Third Party Claim, the identity of the Third Party Claimant and the specific representations, warranties or covenants which Buyer and/or the third party claimant contends Seller has breached. Such notice shall also indicate whether Buyer intends to defend against the Third Party Claim. If Buyer shall defend against the Third Party Claim, Seller shall cooperate in all reasonable respects with Buyer in such defense, shall make available to Buyer all records and other materials reasonably required by Buyer in such defense, and shall have the right to participate in such defense. If Buyer does not intend to defend against the Third Party Claim, then Seller may assume defense of the Third Party Claim through legal counsel of its choice reasonably satisfactory to Buyer, in which event Buyer shall cooperate in all reasonable respects with Seller in such defense, and shall make available to Seller and its counsel all records and other materials reasonably required by them in such defense, but Seller shall at all times control such defense. So long as a Third Party Claim is pending and is not resolved, Buyer shall hold in abeyance its demand for indemnification. If Seller reaches a settlement with the Third Party Claimant which results in any liability to Buyer, or if a judgment is rendered against Buyer which judgment is not properly appealed or appealable, then Buyer shall be entitled to indemnification in an amount sufficient to discharge the Third Party Claim. Each party shall be responsible for its own costs and expenses, including legal fees, incurred in defending a Third Party Claim except that Seller shall pay Buyer's actual costs and expenses (including legal fees) incurred in connection with defending a claim which is determined adversely to Seller and which shall be found to have constituted a breach of Seller's representations, warranties and covenants hereunder.

(c) If Buyer asserts a demand for indemnification hereunder, but such demand is not based upon a Third Party Claim, Buyer shall notify Seller thereof in writing, stating in reasonable detail the nature of Buyer's claim and the specific representations, warranties and covenants which Buyer contends Seller has breached. Seller shall have fifteen (15) days after the effective date of such notice to accept or reject Buyer's demand for indemnification. If Seller accepts such demand for indemnification, Seller shall pay the amount of indemnification claimed by Buyer. If no acceptance is received by Buyer within such 15-day period, Seller shall be deemed to have rejected the demand. In the event Seller rejects Buyer's demand for indemnification or fail to accept such demand within such 15-day period, the parties shall immediately submit the

controversy to arbitration in accordance with the provisions of Section 6.1(d). If the arbitrator(s) render an award in the arbitration proceeding in favor of Buyer, Buyer shall be entitled to indemnification to the extent provided in such award and shall be entitled to an adjustment to the principal amount due to Seller in the Promissory Note should Seller be unable to pay the amount of the indemnification. If the arbitrator(s) render an award in favor of Seller, Seller shall have no further liability on Buyer's claim.

(d) If there is any disagreement between Buyer and Seller concerning the validity of any demand for indemnification asserted under Section 6.1, then such disagreement shall, as provided by Section 6.1(c) or otherwise on demand of either party, be referred to arbitration in Wailuku, Hawaii. Buyer and Seller shall attempt to agree on the appointment of a single arbitrator. If they are unable to agree, a panel of three arbitrators shall be appointed: one arbitrator shall be appointed by Buyer, one shall be appointed by Sellers, and one shall be appointed by the two so appointed. The determination in writing of such arbitrator(s), signed by at least two of them (if there be more than one), shall be final and binding on the parties. Such determination shall be made as soon as practicable after the reference of the claim to arbitration. The arbitrators shall be governed by the Commercial Arbitration Rules of the American Arbitration Association then in effect, and shall have full power to make such regulations and to give such orders and directions in all respects as they shall deem expedient, as well as in respect to the claims and differences referred to them, and also with respect to the mode and times of executing and performing any of the acts or things which may be awarded or directed to be done. The arbitrator(s) shall also allocate among the parties the fees and expenses of the arbitrators and the actual costs and expenses (including legal fees) incurred by the parties in connection with the arbitration in an equitable manner consistent with the decision of the arbitrator(s) regarding the resolution of the claims and differences referred to them, which allocation shall form part of the arbitrator(s)' written determination.

(e) Seller's liability for all Claims under this Section 6 shall be subject to the following limitations: Seller shall have no liability for Claims until the aggregate amount of the Claims incurred exceeds One Thousand Dollars (\$1,000.00) (the "Minimum Loss"); after the Minimum Loss is exceeded, Buyer shall be entitled to be paid the entire amount of the Claims, including the Minimum Loss.

**6.2 Access and Information.** Seller shall give Buyer and its officers, employees and representatives full and reasonable access during normal business hours throughout the period prior to Closing to the offices, operations, properties, books, contracts, agreements, leases, commitments and records (financial and otherwise) of the Station; provided, however, that Buyer shall give Seller reasonable advance notice of exercising this right. Seller shall furnish to Buyer all information concerning the Station's affairs as Buyer may reasonably request.

**6.3 Conduct of Station Business.** Prior to Closing, Seller will promptly deliver to Buyer copies of any application filed with the FCC with respect to the Stations after the filing of the same with the FCC.

6.4 **Risk of Loss or Damage.** Seller shall bear all risk of loss or damage to any of the Assets to be transferred to Buyer hereunder occurring prior to the Closing. In the event any loss or damage occurs, the proceeds of any insurance policy covering such loss shall be used by Seller to repair, replace or restore any such loss prior to the Closing; provided, however, that, if the proceeds of such insurance would not be sufficient to repair, replace or restore the loss, and Seller does not wish to provide additional funds for such purpose upon request by Buyer, Buyer if not then in default may terminate this Agreement or may elect to proceed with Closing with a credit toward the Purchase Price in the amount of the cost to repair, replace or restore. In the event of any such termination pursuant to this Section 6.4 neither party shall have any further right or liability hereunder.

6.5 **Other Proposals.** Seller shall not, nor shall Seller permit any of its employees or agents to solicit or entertain any inquiries or proposals or participate in any discussions, negotiations or agreements relating to the sale of the Station set forth on Schedule 1.1 prior to the Closing Date. Nothing in this Agreement shall prohibit or restrain Seller or any of their related or affiliated entities from discussing, soliciting or entertaining any inquiries or proposals related to the sale of any station not listed on Schedule 1.1.

## 7 **Buyer's Covenants.**

### 7.1 **Indemnification.**

(a) Buyer shall be responsible for and hereby indemnifies Seller and holds Seller and its agents, successors and assigns harmless, with respect to demands for indemnification asserted by Sellers, as provided by this Section 7.1, within one (1) years after the Closing Date from, against and in respect of:

(1) The operation of the Station subsequent to the Closing, including, but not limited to any and all claims, liabilities and obligations arising or required to be performed under the Assigned Contracts assumed by Buyer;

(2) All losses, damages and deficiencies resulting from any failure or breach of any representation or warranty, or any breach or non-fulfillment of any covenant or agreement, of Buyer made in this Agreement; and

(3) All actions, suits, proceedings, claims, demands, assessments, judgments, fines, penalties, amounts paid in settlement, costs and expenses (including reasonable attorneys' fees and expenses) incident to any of the foregoing.

(b) If subsequent to the Closing a demand for indemnification arises out of a claim made against Seller by a person not a party to this Agreement or affiliated with a party to this Agreement (a "Third Party Claim") with respect to any circumstances specified in Paragraph 7.1 (a), Seller shall give prompt notice thereof to Buyer, stating in reasonable detail the nature of the Third Party Claim and the specific representations, warranties or covenants which Seller and/or the Third Party Claimant contends Buyer has breached. Such notice shall also indicate whether Seller intends to defend against the Third Party Claim. If Seller shall defend against the Third Party Claim, Buyer shall cooperate in all reasonable respects with Seller in such defense, shall make available to Seller all records and other materials reasonably required by Seller in such defense, and shall have the right to participate in such defense. If Seller does not intend to defend against the Third Party Claim, then Buyer may assume defense of the Third Party Claim through legal counsel of its choice, reasonably satisfactory to Seller, in which event Seller shall cooperate in all reasonable respects with Buyer in such defense and shall make available to Buyer and its counsel all records and other materials reasonably required by them in such defense, but Buyer shall at all times control such defense. If Buyer reaches a settlement with the Third Party Claimant which results in any liability to Seller, or if a judgment is rendered against Seller which judgment is not properly appealed or appealable, then Seller shall be entitled to indemnification in an amount sufficient to discharge the Third Party Claim. Each party shall be responsible for its own costs and expenses, including legal fees, incurred in defending a Third Party Claim except that Buyer shall pay (i) Seller's actual costs and expenses (including legal fees) incurred in connection with defending a claim which is determined adversely to Buyer and which shall be found to have constituted a breach of Buyer's representations, warranties and covenants hereunder.

(c) If Seller asserts a demand for indemnification hereunder, but such demand is not based upon a Third Party Claim, Seller shall notify Buyer thereof in writing, stating in reasonable detail the nature of Seller's claim and the specific representations, warranties and covenants which Seller contend Buyer has breached. Buyer shall have fifteen (15) days after the effective date of such notice to accept or reject Seller's demand for indemnification. If Buyer accepts such demand for indemnification, it shall pay the amount of indemnification claimed by Seller. If no acceptance is received by Seller within such 15-day period, Buyer shall be deemed to have rejected the demand. In the event Buyer rejects Seller's demand for indemnification or fails to accept such demand within such 15-day period, the parties shall immediately submit the controversy to arbitration in accordance with the provisions of Section 7.1(d). If the arbitrator(s) render an award in the arbitration proceeding in favor of Seller, Seller shall be entitled to indemnification to the extent provided in such award. If the arbitrator(s) render an award in favor of Buyer, Buyer shall have no further liability on Seller's claim.

(d) If there is any disagreement between Seller and Buyer concerning the validity of any demand for indemnification asserted under Section 7.1, then such disagreement shall, as provided by Section 7.1(c) or otherwise on demand of

either party, be referred to arbitration in Wailuku, Hawaii. Buyer and Seller shall attempt to agree on the appointment of a single arbitrator. If they are unable to agree, a panel of three arbitrators shall be appointed: one arbitrator shall be appointed by Buyer, one shall be appointed by Seller, and one shall be appointed by the two so appointed. The determination in writing of such arbitrator(s), signed by at least two of them (if there be more than one), shall be final and binding on the parties. Such determination shall be made as soon as practicable after the reference of the claim to arbitration. The arbitrators shall be governed by the Commercial Arbitration Rules of the American Arbitration Association then in effect, and shall have full power to make such regulations and to give such orders and directions in all respects as they shall deem expedient, as well as in respect to the claims and differences referred to them, and also with respect to the mode and times of executing and performing any of the acts or things which may be awarded or directed to be done. The arbitrators shall also allocate among the parties the fees and expenses of the arbitrators and the actual costs and expenses (including legal fees) incurred by the parties in connection with the arbitration in an equitable manner consistent with the decision of the arbitrator(s) regarding the resolution of the claims and differences referred to them, which allocation shall form part of the arbitrator(s)' written determination.

(e) Buyer's liability for all Claims under this Section 7 shall be subject to the following limitations: (i) Buyer shall have no liability for Claims until the aggregate amount of the Claims incurred exceeds One Thousand Dollars (\$1,000.00) (the "Minimum Loss"); after the Minimum Loss is exceeded, Sellers shall be entitled to be paid the entire amount of the Claims, including the Minimum Loss, subject to the limitations on recovery and recourse set forth in this Section 7

## **8 Application for FCC Approval.**

**8.1 Filing and Prosecution of Application.** Buyer and Seller shall, not later than ten (10) business days from the date hereof, file with the FCC an application requesting its written consent to the assignment of the license of the Station from Seller to Buyer. Buyer and Seller shall proceed with due diligence and promptly take all steps necessary to the expeditious prosecution of such application to a favorable conclusion, using their best efforts throughout.

**8.2 Expenses.** Buyer shall pay all expenses in connection with the preparation of the applicable sections of the FCC application and in connection with the prosecution of such application. All FCC filing fees shall be paid by Buyer.

**8.3 Designation for Hearing.** If, for any reason, with respect to any application for assignment of the Licenses, or pending litigation referenced in Section 2.3, above, the staff of the FCC advises that designation for hearing will be required, either party, if not then in default, shall have the right, by written notice within sixty (60) days of such notification, to terminate this Agreement, in which event neither party shall have any rights or liabilities hereunder.

8.4 **Time of FCC Consent.** If approval of the assignment of the Licenses has not become final (all protests and appeals having been decided or dismissed, or barred by the expiration of time and the period for review by the FCC on its own motion of a grant by the FCC staff on delegated authority having expired without the initiation of such review or else such review having been undertaken and an affirmance of the grant of consent having become final) within twelve (12) months from the date of filing the applications for assignment with the FCC, either party, if not then in default, may terminate this Agreement by giving written notice to the other. Upon such termination, neither party shall have any further right or liability hereunder. Buyer may elect, however, at its sole risk to consummate the transactions contemplated by this Agreement under an FCC approval which has not become final as herein provided.

8.5 **Control of Station.** This Agreement shall not be consummated until the FCC has given its written consent to the assignment of the FCC Station Authorizations to the Buyer.

## 9 **Conditions to Parties' Obligations.**

9.1 **Conditions to Buyer's Obligations.** The obligations of Buyer to complete the transactions provided for herein shall be subject, at its election, to satisfaction on or before the Closing Date of each of the following conditions:

(a) Representations and warranties: all representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects as of the Closing Date (except as may be otherwise provided in this Agreement), and Buyer shall have received a certificate to that effect, dated the Closing Date, signed by an officer of Seller;

(b) Pre-Closing obligations: Seller shall have performed all obligations required to be performed by Seller hereunder, the performance of which has not been waived by Buyer, and Buyer shall have received a certificate to that effect, dated the Closing Date, signed by an officer of Seller;

(c) Due authorization: Seller's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby shall have been duly and validly authorized by all necessary company action on the part of Seller, including due authorization and approval thereof by their sole member, and Buyer shall have received a duly certified copy of all actions taken effecting the same;

(d) Seller's consents, etc.: all necessary notices, filings, consents, waivers and approvals set forth in Section 4.10 shall have been given, made or obtained, as the case may be, by Seller, and Buyer shall have received a true copy of each thereof;



(e) No bar: there shall not be in effect any judgment, decree or order of, or position taken by, any court or administrative body of competent jurisdiction, nor shall there have been any action, suit, proceeding or known investigation instituted or threatened, nor shall any law or regulation have been enacted or any action taken thereunder, which would, in Buyer's reasonable judgment, restrain or prohibit, make illegal, or subject Buyer to material damage as a result of, the consummation of the transactions contemplated hereby;

(f) FCC consent: the FCC shall have given the consent contemplated by Section 8 which consent has become final and non-appealable;

(g) Intentionally Left Blank.

(h) Further closing documents: Seller shall have delivered to Buyer the following documents and instruments in form reasonably satisfactory to counsel to Buyer:

(1) Warranty Bill of Sale transferring to Buyer title to the Station Assets and an assignment of the Station license

(2) Assignment and Assumption Agreements assigning to Buyer the Licenses, Assumed Contracts, Call Letters, Tower Site Lease, Intangible Assets and Business Records; and

(3) Certificate of the Secretary of the State of Louisiana attesting to the good standing of Seller as of a date reasonably proximate to the Closing Date.

(4) Resolution by Seller's Board of Directors approving of this Agreement and authorizing a representative of Seller to execute this Agreement.

(5) Resolution by the duly authorized Members or Managers of Cavaness approving of this Agreement and authorizing a representative of Cavaness to execute this Agreement.

(i) Real estate taxes, etc.: except as otherwise expressly provided herein, all taxes, assessments, utilities, insurance and water charges shall have been prorated between Buyer and Seller to the Closing Date;

(j) Prepaid credits: except as otherwise provided herein, all prepaid expenses or advertisements related to the Station shall have been prorated between Buyer and Sellers to the Closing Date.

(k) Possession: Seller shall have delivered to Buyer actual possession of the Assets.

9.2 **Conditions to Seller's Obligations.** The obligations of Seller to complete the transactions provided for herein shall be subject, at its election, to satisfaction on or before the Closing Date of each of the following conditions:

(a) Representations and warranties: all representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except as may be otherwise provided in this Agreement), and Seller shall have received a certificate to that effect, dated the Closing Date, signed by an officer of Buyer;

(b) Pre-Closing obligations: Buyer shall have performed all obligations required to be performed by it hereunder, the performance of which has not been waived by Seller, and Seller shall have received a certificate to that effect, dated the Closing Date, signed by an officer of Buyer;

(c) Due authorization: Buyer's execution and delivery of this Agreement, its compliance with the provisions hereof and the consummation of all of the transactions contemplated hereby shall have been duly and validly authorized by all necessary action on the part of Buyer, and Seller shall have received a duly certified copy of all required consents effecting the same

(d) No bar: there shall not be in effect any judgment, decree or order of, or position taken by, any court or administrative body of competent jurisdiction, nor shall there have been any action, suit, proceeding or known investigation instituted or threatened, nor shall any law or regulation have been enacted or any action taken thereunder, which would, in Seller's reasonable judgment, restrain or prohibit, make illegal, or subject Seller to material damage as a result of, the consummation of the transactions contemplated hereby;

(e) FCC consent: the FCC shall have given the consent contemplated by Section 8;

(f) Further closing documents: Buyer shall have delivered to Sellers the following documents and instruments:

(1) Certificate from the Hawaii Department of Commerce and Consumer Affairs attesting to the good standing of Buyer as of a date reasonably proximate to the Closing Date; and

(2) Assignment and Assumption Agreements by which Buyer assumes the Licenses, Assigned Contracts, Call Letters, Tower Site Lease, Intangible Assets and Business Records.

10 **Closing.** Subject to the terms and conditions herein stated, the parties agree as follows:

10.1 **Closing Date.** The Closing of the transaction provided for in this Agreement shall be held not later than fifteen (15) business days following the date upon which the order of the FCC approving the assignment of the Licenses for the Station from Seller to Buyer has become final (i.e., no action, request for stay, petition for rehearing or reconsideration, or appeal is pending and the time for filing such request, petition, or appeal has expired and the period for review by the FCC on its own motion of a grant by the FCC staff on delegated authority having expired without the initiation of such review or else such review having been undertaken and an affirmance of the grant of consent having become final), (the "Closing Date"). Such Closing shall take place at the law offices of Richard J. Hayes, Jr., or by mail, at 10:00 a.m. on the Closing Date, or such other place and time as mutually agreed.

10.2 **Failure to Close; Termination.** This Agreement may be terminated at any time prior to the Closing Date, as follows:

(a) by the mutual consent of Seller and Buyer;

(b) as provided by Sections , 6.4, 8.3, or 8.4 of this Agreement;

(c) by Seller, upon notice to Buyer, if on the Closing Date, without any breach by Seller of its obligations hereunder, Buyer has not complied with one or more of the conditions set forth in Section 9.2 (and such compliance is not waived by Seller); or,

(d) by Buyer, upon notice to Sellers, if on the Closing Date, without any breach by Buyer of its obligations hereunder, Seller has not complied with one or more of the conditions set forth in Section 9.1 (and such compliance is not waived by Buyer).

In the event of any termination as provided by this Section 10.2 (a) or (b), this Agreement shall thereupon become void and of no effect, without any further liability on the part of any party and the Option Payment and all accrued interest shall be returned to the Buyer. In the event that there is a termination pursuant to this Section 10.2 (c) or (d), the parties shall have the remedies provided for in Section 11.

11 **Remedies.** Seller's sole and exclusive remedy for material breach by Buyer shall be \$5,000.00 agreed to as liquidated damages as the parties believe that actual damages would be difficult to determine. In the event that Seller materially

breaches this Agreement, it is agreed that the rights and privileges granted to Buyer in this Agreement are special and unique and that the Buyer shall be entitled to seek injunctive and other equitable relief, including without limitation specific performance, in a court of competent jurisdiction, and if such relief is granted, the Buyer shall be entitled to recover from the Seller all costs and expenses (including reasonable attorneys' fees) incurred in securing such injunctive or other equitable relief. Buyer may seek monetary damages arising from such material breach by Seller in addition to specific performance.

## 12 Further Covenants.

12.1 **Taxes.** All taxes originating from this transaction shall be paid by the party responsible by law to pay such tax.

12.2 **Expenses of the Parties.** Except as otherwise expressly provided in this Agreement, all expenses involved in the preparation, negotiation, authorization and consummation of this Agreement and the transactions contemplated hereby, including all fees and expenses of agents, representatives, counsel and accountants, shall be borne solely by the party who shall have incurred the same, and no other party shall have any responsibility with respect thereto.

12.3 **Confidentiality.** Except for necessary disclosure to such party's directors, officers, members, employees, counsel, accountants, lenders and other agents, and except for the disclosure contemplated by Section 8 and such disclosure as may be required by law, each party shall keep the provisions of this Agreement confidential both prior and subsequent to the Closing Date. Without limiting the generality of the foregoing, no party shall make any press release or advertisement with respect to the transactions contemplated hereby without the prior consent of the other party, unless the disclosing party determines, upon the advice of counsel, that such action is required by law, and then the disclosing party shall promptly notify the other party of such disclosure.

12.4 **Broker's Fee.** Seller will be solely responsible for any and all brokerage fees asserted against it by any person or entity claiming entitlement to such fees as a result of this transaction.

12.5 **Further Assurances.** Each party shall cooperate with the other, take such further action, and execute and deliver such further documents, as may be reasonably requested by any other party in order to carry out the terms and purposes of this Agreement. Without limiting the generality of the foregoing, from and after the Closing Date:

(a) each party shall file all tax returns consistent with the allocation of the Purchase Price set forth in Section 2.2, and no party shall take any position on audit or in litigation which is inconsistent with such allocation if such position would result in the payment of any additional tax by, or the disallowance of any deduction or credit to, any other party; and

(b) upon request, each party shall take such action and deliver to the requesting party such further instruments of assignment, conveyance or transfer and other documents of further assurance as in the opinion of counsel to the requesting party may be reasonably desirable to assure, complete and evidence the full and effective transfer, conveyance and assignment of the Assets and possession thereof to Buyer, its successors and assigns, and the performance of this Agreement by Seller and Buyer in all respects.

**13.1 Survival of Representations, Warranties and Covenants.** The several representations, warranties and covenants of the parties herein contained, and the provisions hereof which by their terms are to be performed after the Closing Date, shall survive the Closing Date for the periods set forth herein, and shall be effective regardless of any investigation which may have been or may be made at the time by or on behalf of the party to whom such representations, warranties, covenants and agreements are made.

**13.2 Amendment and Waiver.** This Agreement may be amended only by a writing executed by each of the parties hereto. No waiver of compliance with any provision or condition hereof, and no consent provided for herein, shall be effective unless evidenced by an instrument in writing duly executed by the party sought to be charged therewith. No failure on the part of any party to exercise, and no delay in exercising, any of its rights hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by any party of any right preclude any other or future exercise thereof or the exercise of any other right.

**13.3 Assignment.** No party shall assign or attempt to assign any of its rights or obligations under this Agreement without the prior written consent of the other party hereto.

**13.4 Notices, Etc.** Each notice, report, demand, waiver, consent and other communication required or permitted to be given hereunder shall be in writing and shall be sent either by registered or certified first-class mail, postage prepaid and return receipt requested, or by nationally recognized overnight courier, addressed as follows:

**If to Seller, to:**

Joel Sellers, President  
Big Island Broadcasting, Inc.  
8215 Birch St.  
New Orleans, LA 70118

And with a copy (which shall not constitute notice) to:

John F. Shreves, Esq.  
Simon, Peragine, Smith & Redfearn, LLP

1100 Poydras Street  
30<sup>th</sup> Floor  
New Orleans, Louisiana 70163-3000

And with a copy(which shall not constitute notice) to

Richard J. Hayes, Jr.  
Attorney at Law  
Post Office Box 200  
Lincolnville, Maine 04846

**If to Buyer, to:**

George Hochman, President  
Hochman Hawaii Five, Inc.  
4339 Kalaheo Drive  
Kalaheo, Hawaii 96741

with a copy (which shall not  
constitute notice) to:

Richard J. Hayes, Jr.  
Attorney at Law  
27 Water's Edge Drive  
Lincolnville, Maine 04846

And with a copy (which shall not  
constitute notice) to:

Brian Jenkins, Esq.  
P.O. Box 640  
Wailuku, Hawaii 96793

Each such notice or other communication given by mail shall be deemed to have been received five (5) days after it is deposited in the United States mail in the manner specified herein, and each such notice or other communication given by nationally recognized overnight courier shall be deemed to have been received on the next business day after it is deposited with such courier for overnight delivery. Any party may change its address for the purpose hereof by giving notice in accordance with the provisions of this Section 13.4.

**13.5 Binding Effect.** Subject to the provisions of Section 13.3, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. This Agreement creates no rights of any nature in any person not a party hereto.

13.6 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Hawaii. Any dispute by the parties shall be resolved by arbitration to be conducted in Wailuku, Hawaii by a sole arbitrator under the rules of the American Arbitration Association.

13.7 **Effect of Agreement.** This Agreement, together with its schedules and exhibits sets forth the entire understanding of the parties, and supersedes any and all prior agreements, arrangements and understandings, written or oral, relating to the subject matter hereof.

13.8 **Headings; Counterparts.** The Article and Section headings of this Agreement are for convenience of reference only and do not form a part hereof and do not in any way modify, interpret or construe the intention of the parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement. Any party who delivers such a signature page by facsimile agrees to deliver later an original counterpart to any party that requests it.

13.9 **Waiver of Conflict.** The parties each agree and accept that Richard J. Hayes, Jr. shall be sole FCC counsel for both parties in this transaction and each has been advised that local counsel should be retained and consulted regarding this transaction. Furthermore, both parties agree that if a conflict requiring FCC legal counsel arises between the parties, then Richard J. Hayes, Jr. shall not represent either party in the conflict.

[Signature Page Follows]

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

**BIG ISLAND BROADCASTING, INC.**

By: \_\_\_\_\_  
**JOEL SELLERS, PRESIDENT**

**CAVANESS MANAGEMENT, L.L.C.**

\_\_\_\_\_  
**LIBBY SANTOS, MANAGER: ONLY WITH REGARD TO THE  
TERMS AND CONDITIONS OF SECTION 4.15**

**LYDIA DUCOTE CAVANESS**

\_\_\_\_\_  
**LYDIA DUCOTE CAVANESS: ONLY WITH REGARD TO THE  
TERMS AND CONDITIONS OF SECTION 4.16**

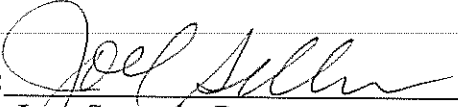
**HOCHMAN HAWAII FIVE, INC.**

By: \_\_\_\_\_  
**GEORGE HOCHMAN, PRESIDENT**



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

**BIG ISLAND BROADCASTING, INC.**

By:   
JOEL SELLERS, PRESIDENT

**CAVANESS MANAGEMENT, L.L.C.**

\_\_\_\_\_  
LIBBY SANTOS, MANAGER: ONLY WITH REGARD TO THE  
TERMS AND CONDITIONS OF SECTION 4.15

**LYDIA DUCOTE CAVANESS**

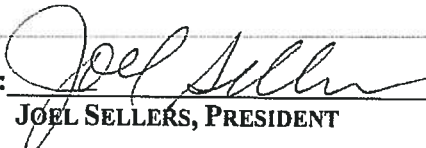
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**HOCHMAN HAWAII FIVE, INC.**


By: \_\_\_\_\_  
GEORGE HOCHMAN, PRESIDENT

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

**BIG ISLAND BROADCASTING, INC.**

By:   
JOEL SELLERS, PRESIDENT

**CAVANESS MANAGEMENT, L.L.C.**

  
LIBBY SANTOS, MANAGER: ONLY WITH REGARD TO THE  
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**LYDIA DUCOTE CAVANESS**

\_\_\_\_\_  
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**HOCHMAN HAWAII FIVE, INC.**

By: \_\_\_\_\_  
GEORGE HOCHMAN, PRESIDENT

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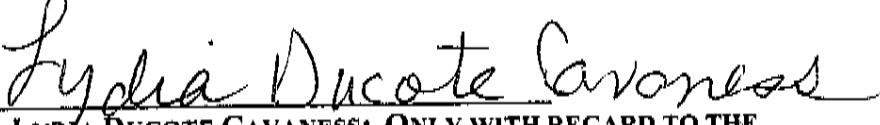
**BIG ISLAND BROADCASTING, INC.**

By: \_\_\_\_\_  
**JOEL SELLERS, PRESIDENT**

**CAVANESS MANAGEMENT, L.L.C.**

\_\_\_\_\_  
**LIBBY SANTOS, MANAGER: ONLY WITH REGARD TO THE  
TERMS AND CONDITIONS OF SECTION 4.15**

**LYDIA DUCOTE CAVANESS**

  
\_\_\_\_\_  
**LYDIA DUCOTE CAVANESS: ONLY WITH REGARD TO THE  
TERMS AND CONDITIONS OF SECTION 4.16**

**HOCHMAN HAWAII FIVE, INC.**

By: \_\_\_\_\_  
**GEORGE HOCHMAN, PRESIDENT**

**Schedule 1.1**  
**Licenses and Authorizations**

**United States of America**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**FM BROADCAST STATION LICENSE**

Authorizing Official:

Official Mailing Address:

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BIG ISLAND BROADCASTING INC  
8215 BIRCH ST  
NEW ORLEANS LA 70118

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Dale E. Bickel  
Senior Engineer  
Audio Division  
Media Bureau

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Facility Id: 164100

Call Sign: KUHI

License File Number: BLH-20080222ACF

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Grant Date: February 26, 2008

This license expires 3:00 a.m.  
local time, February 01, 2014.

This license covers permit no.: BNPH-20041229AAP

Subject to the provisions of the Communications Act of 1934, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this license, the licensee is hereby authorized to use and operate the radio transmitting apparatus herein described.

This license is issued on the licensee's representation that the statements contained in licensee's application are true and that the undertakings therein contained so far as they are consistent herewith, will be carried out in good faith. The licensee shall, during the term of this license, render such broadcasting service as will serve the public interest, convenience, or necessity to the full extent of the privileges herein conferred.

This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequency designated in the license beyond the term hereof, nor in any other manner than authorized herein. Neither the license nor the right granted hereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934. This license is subject to the right of use or control by the Government of the United States conferred by Section 606 of the Communications Act of 1934.

Name of Licensee: BIG ISLAND BROADCASTING INC

Station Location: HI-HAIKU

Frequency (MHz): 106.5

Channel: 293

Class: C

Hours of Operation: Unlimited

Transmitter: Type Accepted. See Sections 73.1660, 73.1665 and 73.1670 of the Commission's Rules.

Transmitter output power: 7.1 kW

Antenna type: Directional

Description: JAM JAHD-6/1 (6) DA

Antenna Coordinates: North Latitude: 20 deg 39 min 36 sec  
West Longitude: 156 deg 21 min 50 sec

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the Horizontal Plane (kW):	69	69
Maximum effective radiated power (kW):	72	72
Height of radiation center above ground (Meters):	52	52
Height of radiation center above mean sea level (Meters):	1387	1387
Height of radiation center above average terrain (Meters):	696	696
Antenna structure registration number: Not Required		
Overall height of antenna structure above ground: 61 Meters		
Obstruction marking and lighting specifications for antenna structure:		

It is to be expressly understood that the issuance of these specifications is in no way to be considered as precluding additional or modified marking or lighting as may hereafter be required under the provisions of Section 303(q) of the Communications Act of 1934, as amended.

None Required

Special operating conditions or restrictions:

- 1 The permittee/licensee in coordination with other users of the site must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.

Special operating conditions or restrictions:

- 2 The relative field strength of neither the measured horizontally nor vertically polarized radiation component shall exceed at any azimuth the value indicated on the composite radiation pattern authorized by construction permit BNPH-20041229AAP.

A relative field strength of 1.0 on the composite radiation pattern herein authorized corresponds to the following effective radiated power:

72 kilowatts.

Principal minima and their associated field strength limits:

50 to 190 degrees True: 2.88 kilowatts

\*\*\* END OF AUTHORIZATION \*\*\*

**Schedule 1.2**  
**Leased Real Property**



Sublicense No. IA - 00029

SUBLICENSE AGREEMENT: BIG ISLAND BROADCASTING, INC.

THIS SUBLICENSE AGREEMENT is entered into on April 30, 2005, effective as of the date provided in Section 1.3 below, by and between ISLAND AIRWAVES, INC., a Hawaii corporation, whose address is 311 Ano Street, Kahului, Maui, Hawaii 96732, ("Sublicensor"), and BIG ISLAND BROADCASTING, INC., whose address is 6026 Navaho Trail, Alexandria, LA. 71301 ("Sublicensee").

1. Sublicense Granted.

1.1 Grant. Sublicensor is the Licensee of that certain real property at Ulupalakua, Hawaii, situate on the Island of Maui, and being a portion of that certain parcel of land identified as T.M.K. (2) 2-1-09:021, comprising approximately three (3) acres, as shown on Exhibit "A", attached hereto and by reference incorporated herein, hereinafter referred to as the "Premises". Sublicensor intends to construct, or is in the process of constructing, or has constructed, a tower (the "Tower") and one or more accessory equipment buildings (the "Equipment Building" or "Equipment Buildings") on the Premises. In consideration of the promises of Sublicensor hereinafter set forth, and in exercise of its right to sublicense other users

*Due* *CS*

pursuant to its License Agreement with Ulupalakua Ranch, Inc. ("Licensor"), the fee simple owner of the Premises, Sublicensor hereby agrees to permit Sublicensee to install, maintain and operate communication equipment itemized and identified in Exhibit "B" attached hereto (the "Equipment") on the Tower and in the space assigned in the Equipment Building in such manner as approved in advance by Sublicensor in writing, subject to all of the following terms, covenants and conditions:

1.2 Nonexclusive Use. Sublicensee's right to use the Premises shall only be to install, maintain and operate communication equipment itemized and identified in Exhibit "B" and shall be on a nonexclusive basis except for those portions of the Tower and Equipment Building designated for Sublicensee's exclusive use as shown on Exhibit "C". Sublicensee shall have no right to use portions of the Premises, Tower, and Equipment Building designated for exclusive use by others, and Sublicensee's right to use portions of the Premises, Tower and Equipment Building not designated for exclusive use by others shall be on a nonexclusive basis and subject to prior written approval of Sublicensor.

1.3 Term. This agreement shall be effective upon execution ("Effective Date") and, subject to earlier termination

2  
 

as herein provided, this agreement shall be in force from the effective date hereof until the day immediately preceding May 1, 2012. Provided Sublicensor excersises its option renewals, sublicensee shall have the right to extend under the same terms and conditions additional options of one, ten (10) year term and two, five (5) year terms. The sublicense shall automatically renew for the renewal term unless the Sublicensee shall notify the Sublicensor at least ninety (90) days prior to the expiration of the initial term of the agreement.

2. Fees.

2.1 Sublicense Fees. Upon the commencement of Sublicensee's construction, Sublicensee shall pay to Sublicensor an annual sublicense fee of TWENTY SIX THOUSAND FOUR HUNDRED \_\_\_\_\_ DOLLARS (\$ 26,400.00 ) in equal monthly installments of TWENTY TWO HUNDRED DOLLARS (\$ 2,200.00 ), in lawful money of the United States of America, on or before the first day of each month in the manner and at such place as Sublicensor shall designate, without set off or deduction and without notice or demand. This amount will be discounted by ONE THOUSAND DOLLARS (\$1,000.00) for the first twelve months of the rental period and FIVE HUNDRED DOLLARS (\$500.00) during the next twelve months of the rental period. Upon the second anniversary and upon each annual



3  
CA

anniversary of the Effective Date, thereafter, Sublicensee shall pay Sublicensor, an annual sublicense fee, in equal monthly installments, as increased pursuant to Section 2.2 below.

2.2 CPI. Commencing on the first anniversary of the Effective Date and on each anniversary of such date thereafter, the sublicense fee for the succeeding twelve month period shall be calculated by increasing the sublicense fee for the preceding twelve month period by three percent (3%).

2.3 Deposits, Fees and Taxes. If the Federal Communications Commission ("FCC"), any public utility or any other agency requires any deposits, taxes and/or fees in connection with Sublicensee's use of the Premises, Sublicensee shall pay said deposits, taxes and/or fees immediately upon notice. Sublicensee shall pay all general excise taxes measured and payable with respect to Sublicensor's receipt of gross revenues pursuant to this agreement.

2.4 Security Deposit. Upon the execution of this Sublicense, Sublicensee shall deposit a security deposit equal to two times the monthly sublicense fee payable hereunder, plus FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). The deposit shall be held by Sublicensor, without liability for interest, as security for the faithful performance by Sublicensee of all of the terms,



4  
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covenants and conditions of this agreement by the Sublicensee to be kept and performed during the term hereof. If, at any time during the term of this agreement, any of the sublicense fees herein reserved shall be overdue and unpaid, or any other sum payable by Sublicensee to the Sublicensor hereunder shall be overdue and unpaid, then the Sublicensor may, at the option of the Sublicensor (but the Sublicensor shall not be required to), appropriate and apply any portion of said security deposit to the payment of any such overdue sublicense fees or other sums. In the event of the failure of Sublicensee to keep and perform any of the terms, covenants and conditions of this Sublicense to be kept and performed by Sublicensee, then, at the option of the Sublicensor, the Sublicensor may apply said entire deposit, or so much thereof as may be necessary, to compensate the Sublicensor for all loss or damage sustained or suffered by the Sublicensor due to such breach on the part of the Sublicensee. For the purposes provided in this paragraph, the Sublicensor shall have a lien, as its security, on said security deposit. Should the entire security deposit, or any portion thereof, be appropriated and applied by the Sublicensor for the payment of overdue sublicense fees or other sums due and payable to the Sublicensor by Sublicensee hereunder, then Sublicensee shall within five (5) days of receipt of written



demand of the Sublicensor, or before the first day following month, whichever is sooner, forthwith remit to the Sublicensor a sufficient amount in cash to restore said security deposit to an amount equal to two (2) times the current sublicense fee, plus FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). Sublicensee's failure to do so within thirty (30) days after receipt of such demand shall constitute a breach of this agreement. If, at the end of the term hereof, the Sublicensor demands by written notice that the Sublicensee remove its Equipment from the Premises, Tower and Equipment Building, and Sublicensee fails to do so after thirty (30) days of receipt of such written notice, the Sublicensor may use the said deposit for such removal. Any and all costs incurred by Sublicensor, in excess of the security deposit held by Sublicensor, for such removal of Sublicensee's Equipment shall be paid by Sublicensee within ten (10) days of Sublicensee's receipt Sublicensor's demand for payment.

3. Use.

3.1 Adequacy of Premises for Intended Uses.

Sublicensee represents that it has independently ascertained that the Premises, the Tower, and the Equipment Building are adequate and proper for Sublicensee's intended use, and Sublicensee has entered into this agreement based solely upon that independent



investigation. Sublicensor makes no representation concerning the condition of the Premises, the Tower or the Equipment Building or their adequacy for Sublicensee's intended use. Sublicensor has no obligation or duty to Sublicensee to improve or otherwise upgrade said Premises, Tower or Equipment Building, or access to the Premises. Sublicensee acknowledges and understands that the road access to the Premises is sometimes unavailable. Sublicensee further acknowledges and understands that Sublicensor has no obligation to provide Sublicensee access to the Premises.

3.2 Installation, Maintenance and Operation of Equipment. Pursuant to Section 1.2 above, Sublicensee shall install, maintain and operate only the equipment itemized in Exhibit "B". All equipment installation, maintenance and operation conducted by Sublicensee at the Premises shall be performed by persons qualified to do so, and in accordance with Sublicensor's prior written approval, and, if necessary, under the direct supervision of Sublicensor's engineer. All costs for such installation, maintenance and operation shall be borne wholly by Sublicensee, including costs incurred by Sublicensor for reviewing Sublicensee's plans and any work performed under the supervision of Sublicensor's engineer. Any modification of Sublicensee's equipment or operations at the Premises shall require the prior



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written approval of the Sublicensor. Sublicensee shall submit a written request for such proposed changes to the Sublicensor at least one hundred twenty (120) days prior to such proposed changes. Sublicensor shall approve or disapprove such request in writing within sixty (60) days following receipt of the request. Failing such written approval or disapproval within the sixty (60) day period, such request shall be deemed approved. The costs incurred by Sublicensor in the review of Sublicensee's replacement or modification of its equipment shall be borne by Sublicensee, including any such work requiring the supervision of Sublicensor's engineer.

Sublicensee acknowledges that any such changes in equipment and operation may result in increases in the monthly Sublicense Fee payable hereunder.

3.3 Cooperation With Other Users. Sublicensee shall cooperate with other users of the Premises to maximize use of the Tower and Equipment Building. Accordingly, the location(s) and type(s) of antennae, feedlines, combining equipment, and ancillary equipment to be used by Sublicensee shall be approved in advance by Sublicensor with the goal of using combining techniques to maximize use of the Premises for the greatest number of users while minimizing interference and Tower wind load. Sublicensee





shall use only well-grounded, non-braided, solid sheath transmission lines, coaxial cable or waveguide between all antennae and electronics. The costs for installing, maintaining and operating all common or shared antennae, feedlines and combining systems on the Premises will be borne by the users of such common or shared antennae, feedlines and combining systems on a cost sharing, pro rata basis as reasonably determined by Sublicensor. Notwithstanding Sublicensee's obligation to cooperate with other users of the Premises, Sublicensee shall not be required to pay for the fees and/or costs of any other user of the Premises, Tower, and Equipment Building, unless such fees and/or costs are equitably allocated over all users of the Premises, Tower, and Equipment Building.

3.4 Interference. Sublicensee's Equipment shall at all times be so operated in such a manner as not to cause any interference of any kind with the present or future operations conducted in and from the Premises or other nearby property. In the event that harmful interference is caused or reported by users of electromagnetic transmitting or receiving equipment on any other properties, Sublicensee, its successors and assigns, will act in a cooperative way to solve the interference problem. This shall include remedial expenditures of time and money for

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cooperative solutions, and Sublicensee specifically agrees that, in the event of unsafe operating conditions, interference with the electromagnetic signal of Sublicensor, its Sublicensees, or any other users of the Premises, or violations of FCC rules, Sublicensee will cease operations until the situation is corrected at Sublicensee's expense. Sublicensor shall be indemnified and held harmless by Sublicensee for any costs, claims for damage or loss, or expenditures of time resulting from any such interference causes or solutions. Sublicensee understands and agrees that Sublicensor shall not have any obligation to prevent or solve any such interference problem(s).

3.5 Temporary Removal. If the location or operation of any of the Equipment shall interfere with the installation, operation, alteration or maintenance of the antenna or other equipment of Sublicensor, its Sublicensees, other users of the Premises, or any of their successors and assigns, Sublicensee shall temporarily remove the Equipment and/or otherwise cooperate in a manner deemed acceptable by Sublicensor for such time as is reasonable for such installation, operation, alteration or maintenance. Sublicensor shall not be obligated to provide substitute or temporary Tower or Equipment Buildings during any alterations by Sublicensor or others.

Handwritten signature and initials. The signature is a cursive 'JME' and the initials are 'CS'.

3.6 Rules and Regulations. Sublicensee shall abide by all present and future federal, state and local regulations pertaining to the installation, maintenance and operation of the Equipment on the Premises, including without limitation, all nonionizing radiation standards.

3.7 Permits and Licenses. Sublicensee shall secure at its own expense all licenses and permits required by law, rule, regulation or ordinance. Neither changes in regulations or rules or policies by agencies or persons other than Sublicensor that affect the operation or use of the Premises, the Tower, the Equipment Building, nor revocation or suspension of any of Sublicensee's licenses or permits, shall excuse Sublicensee from its obligations hereunder, and Sublicensee shall continue to perform hereunder and to make all payments when and as due. Sublicensee hereby represents that it will obtain the necessary licenses and permits required to install, operate and maintain the Equipment at the Premises. Sublicensee shall proceed to acquire all required licenses and permits with all due diligence. Sublicensor shall cooperate and not unreasonably withhold any consents needed to obtain said licenses and permits. Sublicensee will forward copies of said licenses and permits and any subsequent modifications of those licenses and permits to



Sublicensor before installation, operation or maintenance of equipment is implemented.

3.8 Utility Charges. Sublicensor shall provide electrical and other reasonably necessary utilities to allow Sublicensee to operate the equipment listed in Exhibit "B". Sublicensee shall pay Sublicensor a flat rate of \$1,200.00 per month for utility service for the first six months at which time the utility fee shall be readjusted. It is understood and agreed that the charge for utilities shall be a "pass through" of Sublicensor costs for the actual utilities used by the Sublicensee.

4. Maintenance and Repairs.

4.1 Maintenance and Repair. Sublicensee will promptly repair all damage to the Premises, the Tower, the Equipment Building, the roads giving access to the Property (if any), or any part thereof, caused by Sublicensee, its agents or representatives. Sublicensee shall at all times maintain the Premises, the Tower, and the Equipment Building in good and safe and visually attractive condition and repair and in a manner not dangerous to other persons. Sublicensee shall keep the Premises free of rubbish and litter. If Sublicensee fails to maintain the Premises, Tower, and Equipment Building or fails to repair damage



to the roads (if any) giving access to the Property, which are caused by the Sublicensee, then Sublicensor may undertake such repairs at Sublicensee's expense. Sublicensor shall not, under any circumstances, be responsible to Sublicensee for any losses or damage to the Premises, the Tower, or the Equipment Building, or loss of service therefrom, for any reason whatsoever including, without limitation, damage or loss caused by fire, theft, vandalism, lighting, loss of power, inaccessibility, shutdown of the Premises, Tower and Equipment Building for necessary repairs or maintenance, loss of any FCC license or other act, or interference by any third party.

4.2 Access Road. Sublicensor has disclosed, and Sublicensee acknowledges, that there is presently road access to the Premises. If road access to the Premises must be moved or rerouted or reconstructed, Sublicensee shall, upon request by Sublicensor in writing, pay a pro rata share of the cost for the improvement, repair and/or upgrading of the access road from the public road to the Premises. Such pro rata share shall be determined by dividing the cost of such improvement, repair or upgrading by the number of Sublicensees authorized to use the access road, or by an equitable formula selected by Sublicensor.



4.3 Cutting and Clearing Vegetation. Sublicensee hereby acknowledges that the Premises is within a State of Hawaii Conservation District and agrees that any cutting or clearing of vegetation shall be limited only to that which is necessary for maintaining the Premises and equipment in a safe condition. Sublicensee agrees to cooperate with other users of the Premises to prevent and control any and all soil erosion. In the event of soil erosion, Sublicensee agrees to take remedial action to restore the Premises to its original condition.

5. General Provisions.

5.1 Ownership. Sublicensee's Equipment shall be and remain personal property belonging to Sublicensee, and the same may be removed by Sublicensee at any time during the term of this agreement. Sublicensee shall have no right, title or interest in the Premises, the Tower of the Equipment Building except the use thereof as expressly set forth in this agreement. Sublicensee's payment of a pro rata share of capitalized and out-of-pocket site development costs pursuant to Section 2.3 above permits the use thereof in accordance with the terms of this agreement, but confers no ownership interests.

5.2 Access. Sublicensee, its agents and representatives, shall have access to the portions of the



Premises, the Tower, and the Equipment Building not designated for exclusive use by others at any time or hour. Sublicensor reserves the right to approve all persons authorized by Sublicensee to have access to the Premises, the Tower, and the Equipment Building, and Sublicensee shall keep Sublicensor duly informed in writing as to the names and proper means of identifying the persons who are from time to time authorized by Sublicensee to have such access. Sublicensee shall have access only to its own Equipment and the areas of the Premises designated for its use and the common areas designated for the use of all users of the Premises, and under no circumstances will Sublicensee gain access to other equipment located on the Premises or areas of the Premises, the Tower and the Equipment Building, reserved to the exclusive use of other users, or allow anyone else access to equipment other than its own or its reserved areas of the Tower and the Equipment Building. Sublicensor shall have access to the Premises, Tower, and Equipment Building at all times and upon reasonable notice may inspect the Sublicensee's Equipment for compliance with this agreement.

5.3 Insurance. Sublicensee shall procure and maintain in full force and effect at its own expense commercial general liability insurance insuring Sublicensee against any liability

A large, stylized handwritten signature in black ink, appearing to read "Jwe".Handwritten initials in black ink, possibly "CS".

that may arise from the exercise of its rights hereunder with such liability insurance naming Sublicensor and Ulupalakua Ranch, Inc. ("Licensor") as additional insured and having bodily injury policy limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence and THREE MILLION DOLLARS (\$3,000,000.00) aggregate and property damage policy limits of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) per occurrence.

To the extent, if any, that Sublicensee has an insurable interest in the Tower, Accessory Building, Property or Equipment, Sublicensee shall maintain at its own expense fire and casualty insurance on the Tower, the Accessory Building, and other items which may be included in Equipment or Property as herein defined naming Sublicensor and Licensor as additional insureds, in an amount equal the full replacement cost of Sublicensee's interest and including business interruption coverage insuring for at least a period of twelve (12) months after insured against occurrence.

In the event of a casualty, Sublicensee shall promptly repair the Tower, Equipment Building, and Equipment, and all insurance proceeds shall be made immediately available for such repair. In no event will the Sublicensee be excused from its obligations under this Sublicense agreement due to casualty.





5.4 Indemnity. Sublicensee shall indemnify and hold and save Sublicensor harmless from and against any and all loss, cost, damage, liability or claim thereof, including attorney's fees, for injury or damage to persons or property, including wrongful death, arising out of or in connection with the exercise of its rights hereunder by sublicensee, its agents or representatives or any others claiming by, through or under Sublicensee. Such indemnification shall include without limitation indemnification for any interference by Sublicensee with operations of others in violation of Section 3.4 above and shall survive expiration or earlier termination of this agreement.

5.5 Default. If monthly sublicense fees and any other payments due hereunder remain unpaid for a period of ten (10) days or if Sublicensee makes an assignment for the benefit of creditors, becomes insolvent, or becomes involuntarily or voluntarily bankrupt or otherwise in default or in violation of any term or provision of this agreement, and fails to correct the default within five (5) days of receipt of written notice from Sublicensor, Sublicensor may, at Sublicensor's sole option, (i) declare the entire unpaid balance payable over the term of this agreement immediately due and payable, with interest thereon at the maximum legal rate, or (ii) terminate this agreement.

A large, stylized handwritten signature, possibly reading "Ave", in dark ink.

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CS

Additionally, if Sublicensee is in default of any term or condition herein, Sublicensor may, no earlier than thirty (30) days after receipt of written notice of such default by Sublicensee and subject to all applicable regulations of the FCC, disconnect Sublicensee's Equipment and otherwise prevent its use until Sublicensee cures the default and pays Sublicensor the actual costs incurred in disconnecting and reconnecting the Equipment, but not less than ONE HUNDRED DOLLARS (\$100.00). Such disconnection shall not cause a reduction in the amounts due under this agreement. Sublicensee shall pay Sublicensor's reasonable attorney's fee and costs incurred in pursuit of curing said default. In the event Sublicensor retains legal counsel to enforce any term or provision hereof, the prevailing party shall be entitled to costs of suit and attorney's fees.

5.6 Interest and Cost of Collection. Whenever any sum shall be owed by Sublicensee to Sublicensor under the terms of this agreement and shall not have been paid as and when required by this agreement, in addition to any other rights and remedies Sublicensor may possess, Sublicensor shall be entitled to interest on such delinquent sums at the maximum legal rate from the due date to and including the date of payment, plus costs of collection, including without limitation attorney's fees.



5.7 Assignments or Sub-sublicensing. Sublicensee shall not, whether voluntarily, involuntarily or by operation of law, assign, transfer, mortgage, sub-sublicense or otherwise encumber part with possession or encumber all or part of Sublicensee's interest in this agreement, any rights hereunder, or in the Premises, the Tower, or the Equipment Building, without the prior written consent of Sublicensor in each instance, and any attempted assignment, transfer, mortgage, sub-sublicense, or encumbrance without such consent shall be wholly void and shall, at the option of Sublicensor, constitute a default. Sublicensor may require (i) full disclosure of the terms and conditions of the assignment, transfer, mortgage, sub-sublicense or other encumbrance, (ii) proof of the financial responsibility and previous experience and intended use of the assignee, transferee, or sub-sublicensee, (iii) the payment of reasonable costs associated with such approval, including but not limited to attorney's fees. It shall not be deemed unreasonable for Sublicensor to refuse to consent based upon the financial responsibility and intended use of the proposed assignee, transferee or sub-sublicensee. Assignment as used herein shall include, without limitation, any sale, assignment or transfer of whatsoever description of any partnership or controlling



shareholder interest in Sublicensee. If Sublicensee elects to sell, assign or transfer its interest in its communications facility (by way of a sale of assets, sale, transfer or merger of any partnership or shareholder interest in Licensee), Sublicensee shall include in any agreement of sale, subassignment or transfer, that this Sublicense Agreement shall be assumed by such purchaser, assignee or transferee, subject, however, to the written consent of Sublicensor which consent shall not be unreasonably withheld. Should this agreement be assigned during the first two years , no further discounts shall apply.

5.8 Surrender. Upon expiration or earlier termination of this agreement, Sublicensee may and, upon Sublicensor's request, shall remove any or all of its Equipment and help Sublicensor or any other designee of Sublicensor to restore the Premises, the Tower and the Equipment Building to their original condition.

5.9 No Recording. This . agreement shall not be recorded in the Bureau of Conveyances or the Land Court of the State of Hawaii.

5.10 Paragraph Headings. Paragraph headings used herein are for convenience only and do not limit the scope or

A handwritten signature in dark ink, appearing to be 'Owe' or similar, located at the bottom right of the page.A handwritten mark or symbol, possibly a stylized 'G' or 'H', located at the bottom right of the page.

meaning of the provisions hereof or otherwise affect the construction thereof.

5.11 Prior Negotiations. This instrument constitutes the entire agreement of the parties hereto and shall supersede all prior offers, negotiations and agreements.

5.12 Amendment. No revision of this agreement shall be valid unless made in writing and signed by the parties hereto.

5.13 Governing Law. This agreement shall be governed by the laws of the State of Hawaii.

5.14 Parties. This agreement shall inure to the benefit of and be binding upon Sublicensor and Sublicensee, their respective heirs, personal representatives, permitted successors, successors in trust and permitted assigns.

5.15 Notices. All notices, requests, demands, consents and other communications hereunder shall be in writing and shall be deemed to have been duly given when sent by certified or registered mail, return receipt requested, posted prepaid, addressed as follows:

If to Sublicensor: ISLAND AIRWAVES INC  
311 ANO STREET  
KAHULUI HAWAII 96732

If to Sublicensee: BIG ISLAND BROADCASTING, INC.  
6026 Navaho Trail



Alexandria, LA. 71301

or, in each case, to such address as may hereafter have been designated in writing most recently. Any notices or reports so mailed shall be deemed delivered five (5) business days following any day when the same is mailed as aforesaid.

5.16 Time is of the Essence. The parties agree that time is of the essence of this agreement.

5.17 No Waiver. The waiver of any term, provision, or default under this agreement shall not constitute the waiver of any other term, provision or default.

5.18 Severability. If any part of this agreement shall be adjudged contrary to law, the remaining provisions hereof shall remain in full force and effect.

5.19 Exhibits. All exhibits attached hereto and referenced herein as part of this agreement.

5.20 Arbitration. Whenever this agreement provides that the monthly sublicense fee is to be determined by arbitration, then such matter shall be determined by one impartial arbitrator mutually acceptable to Sublicensor and Sublicensee. If Sublicensor and Sublicensee cannot agree upon one such arbitrator, within 10 days, then the matter shall be determined by three arbitrators, one to be appointed by each of the parties hereto as



follows: Sublicensor and Sublicensee each shall promptly name one such arbitrator and given written notice thereof to the other party. In case either party shall fail so to do within ten (10) days after such notice of the appointment of the first arbitrator, the party naming the first arbitrator may apply to any person then sitting as judge of the Circuit Court of the Second Circuit of the State of Hawaii for appointment of a second arbitrator. The two arbitrators thus appointed in either manner shall appoint a third arbitrator, and in case of their failure so to do within ten days after appointment of the second arbitrator, either party may have such third arbitrator appointed by such judge. The three arbitrators so appointed shall proceed to determine the monthly sublicense fee, based on the rate paid by similar users of comparable broadcasting sites. The decision of said arbitrators or a majority of them shall be final, conclusive and binding upon Sublicensor and Sublicensee.

5.21 Subordinate to License. This agreement is expressly subject and subordinate to all of the provisions of that certain License Agreement dated March 12, 1997, (herein referred to as "License"), by and between Ulupalakua Ranch, Inc., Licensor, and Island Airwaves, Inc., Licensee, as amended from time to time.

Sublicensee covenants with Sublicensor that it will comply with



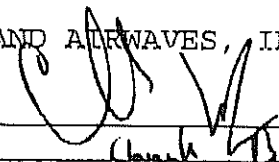
all applicable provisions of the License, and will not cause a default under the License.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date set forth above.

SUBLICENSOR:

ISLAND AIRWAVES, INC.

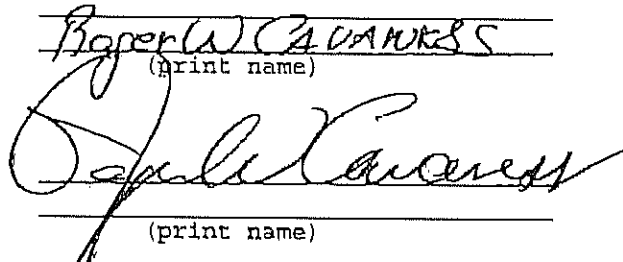
By

  
\_\_\_\_\_  
(print name)  
Its President

SUBLICENSEE:

BIG ISLAND BROADCASTING, INC.

Boger W. C. ADAMS  
\_\_\_\_\_  
(print name)

  
\_\_\_\_\_  
(print name)



# Exhibit "B"

Bip Island Equipment list  
for 1065, Maui, HI

Radio Transmitter

Exciter

Radio Processing

Radio Broadcast Antenna A

Equipment Rack

SAT Dish & Transmitters

Various Cables, Connections, Spare  
Parts, Backups, and various items

Back up Antenna A

Jul 4

Code: ASCE 7-93  
 Wind: 90 MPH basic wind speed  
 Exposure: 'C' (open terrain)  
 Category I; I = 1.00

2 ea Vampas WAD  
 5-bay panel antennas  
 with 2 each 6-1/8" feed lines

4 Bay Big Island  
 Broadcasting 106.5



*Handwritten signature*

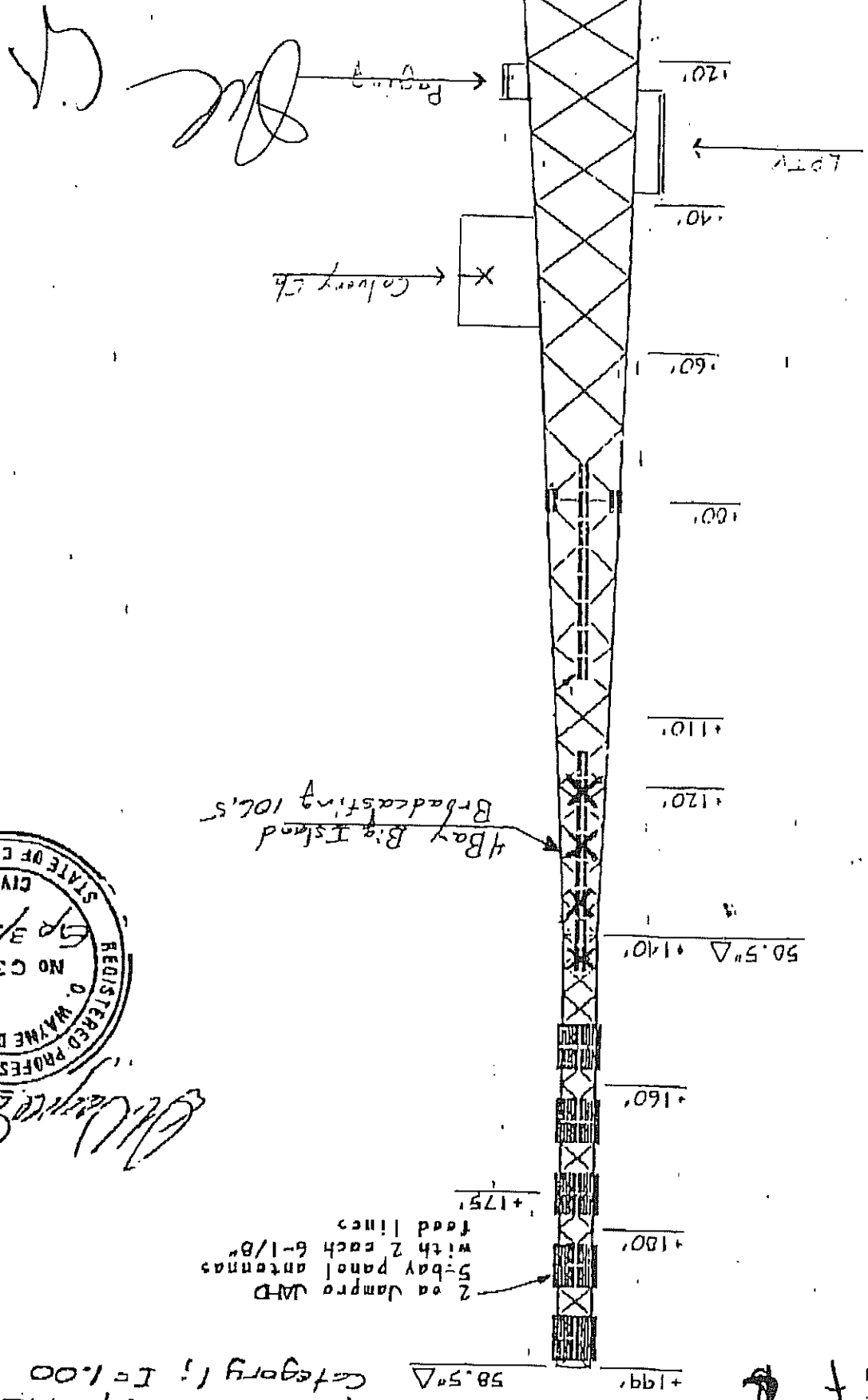
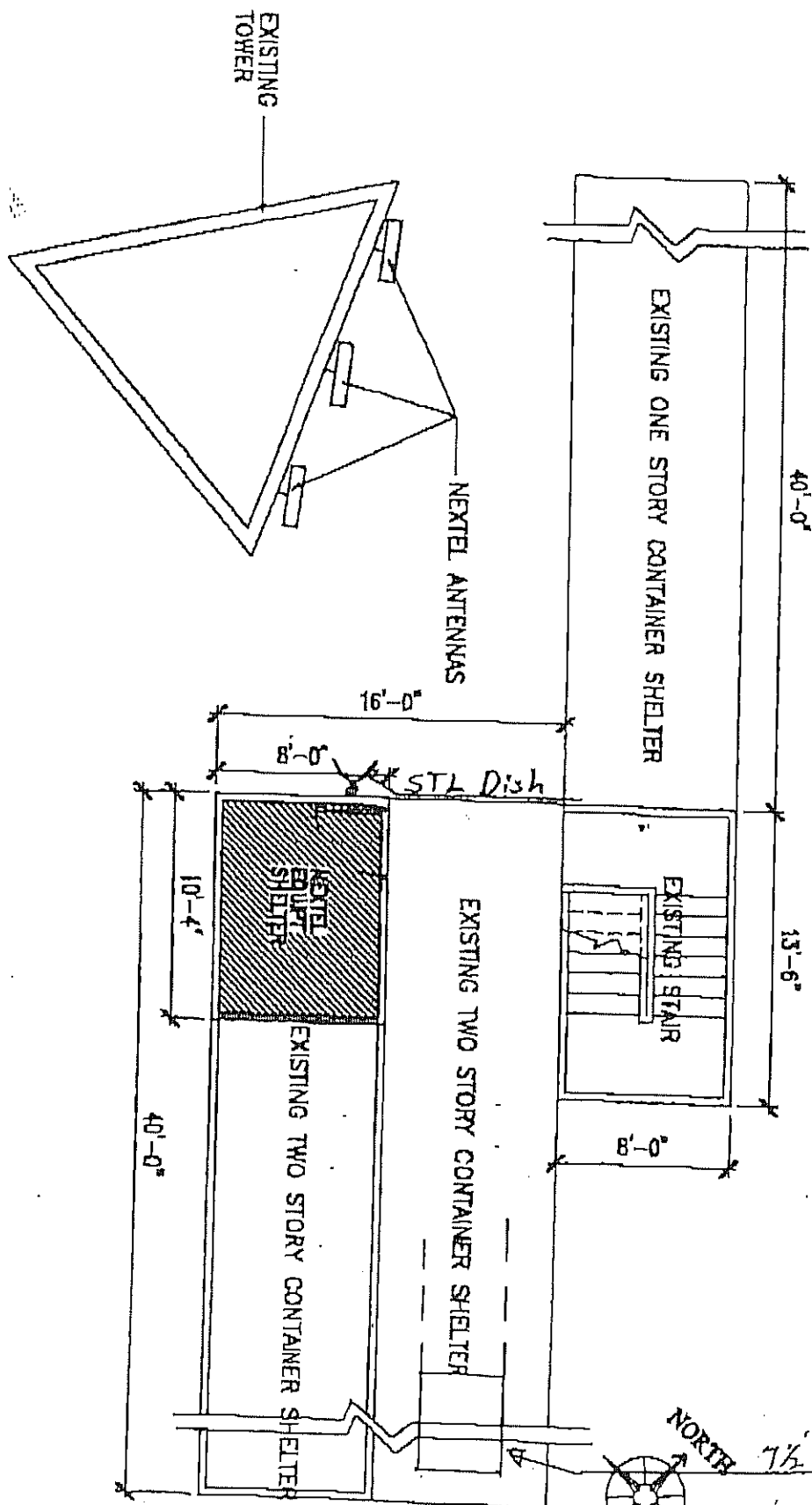


Exhibit "G"

AD2  
 10/22/02



7 1/2' for transmitter  
 + Rack  
 in bottom Transmitter  
 Container Next to  
 KONI transmitter

2 FACILITY PLAN  
 SCALE 1/8" = 1'-0"

**Schedule 1.3**  
**Tangible Personal Property**

## Big Island Broadcasting Equipment Listing

- Omnia1 FM Digital On-Air Processor; with mountings and installed
- Space Stereo Monitor System
- Radio Transmitter: CCA 10KW Solid State; IPA 700W Solid State Drive, PA 3CX15000A7
  - BE FX50 Exciter Digital
  - Transformer
  - Rectifier
  - Tube, rebuilt, 3CX15000A7
  - Power Supply
  - 700 W Silicon Valley 0101-700CH
  - McLean blower
  - Misc components for installation
    - Breakers
    - Relay
    - Rheostats
- Combiner Unit

Seller is conveying all of the equipment associated with KRYL, Haiku to Buyer. Buyer and Seller will confirm, prior to closing, that all of the equipment is properly identified to Buyer.

**Schedule 1.6**  
**Intangible Property**

**Schedule 1.6**

**Intangible Property**

There is no intangible property.

**Schedule 2.1**

**Promissory Note, Security Agreement, Pledge Agreement**



## PROMISSORY NOTE

US \$450,000.00

\_\_\_\_\_, 20\_\_\_\_

FOR VALUE RECEIVED, Hochman Hawaii-Five, Inc., a Hawaii corporation, (the "Maker" or the "Borrower"), promises to pay to the order of Big Island Broadcasting, Inc., a Louisiana corporation, or its assigns (the "Lender" or the "Holder") at 8215 Birch Street, New Orleans, LA 70118 or at such other place as the Holder of this Note may from time to time designate, the principal amount of FOUR HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (US\$450,000.00) accruing interest at a rate of six percent (6%) per annum from the date hereof until paid in full, as follows: The annual percentage rate (APR) shall be six percent [6%] with payments of interest only for the first twelve payments and payments of principal and interest amortized over a ten year period, thereafter. The twelve interest only monthly payments shall be TWO THOUSAND TWO HUNDRED FIFTY and 00/100 DOLLARS (\$2,250.00). Thereafter, for the next ten years, the monthly payments of principal and interest shall be FIVE THOUSAND TWO HUNDRED TWENTY FOUR AND 91/100 DOLLARS (\$5,224.91). This Note shall be secured by a Security Agreement and a Stock Pledge Agreement which are exhibits to the Asset Purchase Agreement, along with a copy of this Promissory Note, between the parties. This Note shall be secured by a Security Agreement and a Stock Pledge Agreement, which are exhibits to the Asset Purchase Agreement, along with a copy of this Promissory Note, between the parties. The first payment shall be made within TEN (10) days of the date of the closing of the Asset Purchase Agreement between Maker and Holder and subsequent payments shall be due on the first day of each month after the date of the initial payment. Should the Petition for Reconsideration, referenced in Section 2.4 of the Asset Purchase Agreement, not be dismissed prior to the end of the first year of payments pursuant to this Promissory Note, the Holder agrees to continue interest-only payments until the Petition for Reconsideration is dismissed. In the event the Petition for Reconsideration has not been dismissed by the FCC during the first year of Buyer's payment obligation, with the FCC's decision on the matter favorable to Seller, the Parties agree to extend the interest only feature of this Promissory Note until the FCC dismisses that Petition for Reconsideration with the FCC's decision on the matter favorable to Seller. Should the FCC's decision regarding the Petition for Reconsideration be unfavorable to Seller and the FCC license for the Station revoked, the Promissory Note shall be cancelled by the Holder and the obligation of Buyer shall be terminated, without recourse, on the date that the FCC's decision becomes effective. In such an event, Buyer shall not be entitled to any reimbursement for any expense including any monies spent on interest payments pursuant to the Promissory Note. Should the FCC's decision on the Petition for Reconsideration not result in revocation of the Station's license but, instead, require an FCC hearing, Seller shall pay any necessary legal costs associated with defending the Station's license at such hearing. During the pendency of such litigation, the Promissory Note shall remain in full force and effect. If after such hearing, the FCC revokes the license, the Promissory Note will be cancelled as outlined in this Section. Any fines or forfeitures imposed on the Station as a result of the Petition to Deny shall be paid for by

Seller. Any conflict between provisions of this Promissory Note and this Asset Purchase Agreement shall be resolved by the language of the Asset Purchase Agreement.

Notwithstanding the provision for the required monthly payment, the entire outstanding principal balance hereof, together with all accrued interest and unpaid interest hereon, shall be due and payable in full upon the sale or transfer of a controlling interest of the Maker's stock, or the sale or transfer of substantially all of the assets of the Hochman Hawaii-Five, Inc or the sale or transfer of substantially all of the assets of FCC facility ID No. 164100.

All payments hereunder shall be made in lawful money of the United States of America, without offset, by Maker's check.

The unpaid principal amount of this Note may be prepaid in whole or in part at any time or times without premium or penalty. Unless the Lender otherwise elects, all prepayments shall be applied first, to the payment of accrued and unpaid interest, and then, to the unpaid principal balance of this Note.

This Note evidences Buyer's business obligation to Seller for the purpose of purchasing all of the assets of an FM broadcast Station on Haiku, Hawaii, FCC Facility ID No. 164100 pursuant to the Resolution of the Directors of Big Island Broadcasting, Inc. a Louisiana corporation dated \_\_\_\_\_ and pursuant to the Resolution of the Directors of Hochman Hawaii-Five, Inc., a Hawaii corporation dated \_\_\_\_\_. This Note, Security Agreement and the Pledge Agreement are hereinafter collectively referred to as the "Loan Documents". Neither references herein to the Loan Documents nor to any provision thereof shall affect or impair the absolute and unconditional obligation of the Maker to pay the principal amount hereof, together with interest accrued thereon and all other sums payable hereunder, when due.

The occurrence of any one or more of the following shall constitute an event of default ("Event of Default") hereunder:

- (1) Failure to make payment, when due, within ten (10) business days of the due date (herein "Grace Period").
- (2) Failure to pay the outstanding principal balance of this Note when due within the Grace Period, whether at stated maturity, by acceleration, by notice of prepayment or otherwise; or

Upon the occurrence of any Event of Default, and in every such event, the Lender may, at its option, with five (5) days written notice to Borrower and an additional thirty (30) days to cure the default, declare the Note to be, and the Note shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower and exercise all other rights, powers and remedies available under the Loan Documents, at law or in equity. Each right, power and remedy of the Holder as provided for in this Note is in addition to, and not in substitution for, every other right, power and remedy exercisable by the Holder upon an event of default under the Loan Agreement or any other Loan

Document, or as provided by applicable law. No single or partial exercise by the Holder of any right, power or remedy referred to above shall preclude any other or further exercise thereof or the exercise of any other of such rights, powers and remedies. No delay or omission on the part of the Holder to exercise such option or to pursue any such rights, powers or remedies shall constitute a waiver of such option or such other remedies or of the right to exercise any of the same in the event of any subsequent Event of Default hereunder.

In the event that Maker fails to make any payment (whether of principal, interest, or any other sum) on the date such payment is due and payable pursuant to this Note or any other Loan Document, and such failure shall continue after the Grace Period, defined above, the Maker shall pay to the Holder, upon demand therefore, a late payment fee (the "Late Payment Fee") equal to five percent (5%) of the amount of such payment. The Late Payment fee shall be in addition to, and not in lieu of, any other right or remedy the Holder may have and is in addition to any reasonable fees and charges of any agents or attorneys which the Holder is entitled to pursuant to the terms hereof or by law.

Any payment on this Note coming due on a Saturday, a Sunday, or a day which is a legal holiday in the place at which a payment is to be made hereunder shall be made on the next succeeding day which is a business day in such place, and any such extension of the time of payment shall be included in the time of computation of interest hereunder.

The Maker hereby waives presentment, protest, demand, notice of dishonor, and all other notices, and all defenses and pleas on the grounds of any extension or extensions of the time or payments or the due dates of this Note, in whole or in part, before or after maturity, with or without notice. No renewal or extension of this Note, and no delay in enforcement of this Note or in exercising any right or power hereunder, shall affect the liability of the Maker.

Whenever used herein, the words "Maker", "Lender" and "Holder" shall be deemed to include their respective successors and assigns.

This Note shall be governed by and construed under and in accordance with the laws of the State of Hawaii (but not including the choice of law rules thereof).

IN WITNESS WHEREOF, the undersigned has caused this Note to be duly executed on its behalf as of the day and year hereinabove set forth.

WITNESS:

**Hochman Hawaii-Five, Inc.**

\_\_\_\_\_

By: \_\_\_\_\_  
George Hochman, President

## SECURITY AGREEMENT

THIS SECURITY AGREEMENT is dated as of this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between Hochman Hawaii-Five, Inc., a Hawaii corporation, (the "Debtor"), and Big Island Broadcasting, Inc., a Louisiana corporation (the "Secured Party").

### WITNESSETH:

WHEREAS, Debtor has entered into an Asset Purchase Agreement dated \_\_\_\_\_, \_\_\_\_\_ 2008 (the "Asset Purchase Agreement") with the Secured Party for the assignment of the license and the purchase of all assets used in the operation of an FM broadcast Station on Channel 293C, Haiku, Hawaii, FCC Facility ID No. 164100 (the "Station");

WHEREAS, the Asset Purchase Agreement provides that the Debtor shall enter into that certain promissory note of even date herewith (the "Promissory Note") under the terms of which Debtor shall pay Secured Party compensation in the aggregate amount of Four Hundred Fifty Thousand Dollars (\$450,000) plus interest thereon to complete payment for the assets purchased pursuant to the Asset Purchase Agreement;

WHEREAS, the Asset Purchase Agreement requires Debtor to execute and deliver to Secured Party this Security Agreement to secure Debtor's obligation under the Asset Purchase Agreement to pay such amounts by granting Secured Party a security interest in the Station;

NOW, THEREFORE, in consideration of the promises and agreements contained herein and the Secured Party's agreements under the Asset Purchase Agreement and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Secured Party and the Debtor agree as follows:

### ARTICLE 1. GRANT OF SECURITY INTEREST

In order to secure the payment of any and all amounts owed by Debtor to Secured Party pursuant to Section 2.1. of the Asset Purchase Agreement and the Promissory Note and all other duties and obligations of Debtor pursuant to the Asset Purchase Agreement and the Promissory Note (being hereinafter collectively referred to as the "Obligations"), Debtor hereby grants to Secured Party a first priority security interest in all of Debtor's right, title and interest in and to all personal property, both tangible and intangible and of every kind and description, whether now or hereafter existing, or now owned or hereafter acquired, and wherever located, that is used in the operation of the Station, and all proceeds, products, replacements, additions, accessions and/or

substitutes therefore, including, without limitation, all goods, machinery, equipment, furniture, furnishings, fixtures, inventory, accounts, chattel paper, instruments and general intangibles, as such terms, may be defined in the Uniform Commercial Code in the jurisdiction in which such assets are located, that are used in the operation of the Station, and the proceeds and products of any and all of the foregoing assets and properties described in this Article 1, including proceeds of insurance policies relating to any and all of the foregoing assets and properties; provided, however, that such security interest does not include any permits or licenses granted by the FCC to the extent that Debtor is prohibited from granting a security interest therein pursuant to the Communications Act of 1934, as amended, and the regulations promulgated thereunder, and any other licenses to the extent the transfer or pledging thereof is prohibited by the granting authority. All of the foregoing shall be hereinafter referred to as the "Collateral."

## ARTICLE 2. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEBTOR

Debtor represents, warrants and covenants that:

(a) the Collateral (and all records pertaining thereto) will at all times be kept at the locations specified on Exhibit A hereto and Debtor will not change the location at which any of the Collateral is usually kept or the location of its chief executive office or principle place of business without giving thirty (30) days' prior written notice to Secured Party;

(b) Debtor owns and has possession of the Collateral except that portion to be hereafter acquired;

(c) all the Collateral is genuine and enforceable and free from liens, adverse claims, charges, encumbrances, taxes or assessments, other than the liens created hereby, or by liens, adverse claims, charges or encumbrances previously created by the Secured Party but not disclosed by the Secured Party and Debtor shall defend the same against all claims and demands of all persons at any time claiming against the same or any interest therein adverse to Secured Party except for liens, adverse claims, charges or encumbrances previously created by the Secured Party but not disclosed by the Secured Party ;

(d) all items of the Collateral comply with applicable laws, including, where applicable, Federal Reserve Regulations and any state consumer credit usury laws;

(e) no financing statement created by Debtor covering any of the Collateral, and naming any secured party other than the Secured Party, is on file in any public office;

(f) Debtor will, at its sole cost and expense, maintain, replace, repair, service and take other action as may be necessary from time to time to keep and preserve its inventory, machinery and equipment in general repair and good working order and any inventory, machinery or equipment which wears out or is destroyed will be replaced or restored if necessary for the operation of the business of Debtor in the ordinary course. Debtor will within 10 days notify Secured Party of any event compromising loss of decrease in the value of the Collateral in excess of \$50,000;

(g) Debtor will comply with all laws, rules and regulations relating to, and shall pay prior to delinquency, all license fees, registration fees, taxes and assessments and all other charges, which may be levied upon or assessed against, or which may become security interests, liens or other encumbrances upon the ownership, operation, possession or maintenance of the Collateral; provided that Debtor shall not be required to comply with any such law, rule or regulation or to pay any such tax or assessment or other such charge, the validity of which is being contested by Debtor in good faith by appropriate proceedings commenced and prosecuted with the due diligence and with respect to which adequate reserves have been established and are being maintained in accordance with general accepted accounting principles;

(h) Debtor will execute and at its expense file and refile such financing statements, continuation statements and other documents in such offices as Secured Party may deem necessary or appropriate in order to protect or preserve Secured Party's security interest in the Collateral;

(i) Debtor will not sell, offer to sell, hypothecate or otherwise dispose of any material part of the Collateral (including proceeds) subject hereto, or any part thereof or interest therein at any time other than in the ordinary course of business and in exchange for Collateral of like value in which Secured Party shall have a security interest;

(j) Debtor will at all times keep accurate records with respect to the Collateral which are as complete and comprehensive as those which are customarily maintained by those engaged in similar businesses, and Secured Party will have the right to inspect such records at such times and from time to time as Secured Party may reasonably request;

(k) Debtor will provide any service and do any other acts or things necessary to keep the Collateral free and clear of all defenses, rights of offset and counterclaims. This provision does not apply to any services, acts or things related to any liens, adverse claims,

charges or encumbrances created by the Secured Party. Secured Party may, at any time prior to termination hereof, require Debtor from time to time to deliver to Secured Party (i) schedules describing all the Collateral subject hereto, and (ii) instruments and chattel paper included in the Collateral, appropriately assigned and endorsed to Secured Party;

(l) Debtor will maintain such insurance on the Collateral as may be reasonably required by Secured Party. In the event of a failure to provide and maintain insurance as herein provided, Secured Party may, at its option, provide such insurance and Debtor hereby promises to pay Secured Party on demand the amount of any disbursements reasonably made by Secured Party for such purpose. Risk of loss or damage shall accrue to Debtor to the extent of any deficiency in any effective insurance. Debtor shall furnish to Secured Party certificates or other evidence satisfactory to Secured Party of compliance with the foregoing insurance provisions. Debtor shall give immediate written notice to Secured Party to the insurers of any loss or damage to the Collateral or any part thereof in excess of \$20,000 and shall promptly file all necessary or appropriate proof of loss with the insurers. Any amounts collected received under any such insurance policies may be applied by Debtor either to the replacement or restoration of the Collateral or to any of the Obligations secured hereby in the manner provided in Article 8 hereof; and

(m) Debtor shall not change its name, identity or corporate structure, voluntarily or involuntarily, without giving 30 days' prior written notice to Secured Party.

### ARTICLE 3. AUTHORITY TO COLLECT

Except as otherwise hereinafterward set forth, unless and until Debtor fails to make any payment pursuant to the Promissory Note on or before the date that is ten (10) days following the due date for any such payment (an "Event of Default"), Debtor shall continue to collect, and upon the occurrence of such an event, Debtor may, at the direction of Secured Party, continue to collect, at its own expense, all amounts due and to become due under any accounts, chattel paper, instruments or general intangibles and in connection therewith may take such action as it may deem necessary, advisable, convenient or proper for the enforcement, collection, adjustment, settlement or compromise thereof.

### ARTICLE 4. REMEDIES

Upon the occurrence of an Event of Default, Secured Party shall have the right to declare immediately due and payable all of the Obligations, without other notice or demand. Secured

Party shall have all the rights and remedies of a secured party under the Uniform Commercial Code and all other rights, privileges, powers and remedies provided by law or equity.

Without limiting the generality of the foregoing, after the occurrence of an Event of Default:

(a) Secured Party shall have the power to notify the account debtor or debtors obligated under any accounts, chattel paper, instruments and general intangibles of the assignment of such accounts, chattel paper, and general intangibles to Secured Party and of its security interest therein and to direct such account debtor or debtors to make payment of all amounts due or to become due to Debtor thereunder directly to Secured Party and, upon such notification to the account debtor or debtors, to enforce collection of any thereof in the same manner and to the same extent as Debtor might have done. The funds so collected shall be held as security for the payment of the Obligations secured hereby and applied in the manner provided in Article 8 hereof.

Debtor hereby constitutes and appoints Secured Party as its true and lawful attorney, in the place and stead of Debtor and with full power of substitution, either in Secured Party's own name or in the name of Debtor, to ask for, demand, collect, receive and give acquittance for any and all monies due or to become due under and by virtue of any account, chattel paper, instruments and general intangibles, to endorse checks, drafts, orders and other instruments for the repayment of monies payable to Debtor on account thereof, and to settle, compromise, prosecute or defend any action, claim or proceeding with respect thereto and to sell, assign, pledge, transfer and make any agreement respecting, or otherwise deal with, the same; provided, however, that nothing herein contained shall be constructed as requiring or obligating Secured Party to make any demand, or to make any inquiry as to the nature or sufficiency of any payment by it, or to present or file any claim or notice or to take any action with respect to any account, chattel paper, instruments or general intangible or the monies due or to become due thereunder of the property covered thereby, and no action taken or omitted to be taken by Secured Party with respect to any account, chattel paper, instruments or general intangible shall give rise to any defense, counterclaim or set off in favor of Debtor or to any claim or action against Secured Party;

(b) Debtor will deliver to Secured Party from time to time, as requested by Secured Party, current lists of the Collateral;

(c) Debtor will not dispose of Collateral with a value in excess of \$20,000.00, except on terms approved in writing by Secured Party;



(d) Debtor will collect, assemble and deliver all of the Collateral and books and records pertaining thereto, to Secured Party at a reasonably convenient place designated by Secured Party; and

(e) Secured Party may, to the extent permitted by law, enter onto Debtor's premises and take possession of the Collateral, and assign, sell, lease or otherwise dispose of Debtor's interest in the Collateral for the account of Debtor and Debtor shall then be liable for the difference between the total amount of the outstanding Obligations and amounts received pursuant to such assignment or contract of sale or lease or other disposition of Debtor's interest in the Collateral and the amount of such difference shall then be immediately due and payable. Secured Party may, in its sole discretion, designate a custodian or agent to take physical possession of the Collateral. Secured Party shall give Debtor reasonable notice of time and place of any public sale of the Collateral or the time after which any private sale or other intended disposition thereof is to be made and, to the extent feasible, the principle terms and conditions proposed by Secured Party with respect to such public or private sale. The requirement of reasonable notice shall be met if notice of the sale or other intended disposition is mailed, by first class mail, postage prepaid, to Debtor at its address set forth in Article 15 hereof or such other address as Debtor may by notice have furnished Secured Party in writing for such purpose, at least thirty (30) days prior to the time of such sale or other intended disposition.

All notices of public or private sale shall specify that the assignment of any FCC permit of license for the Station must first be approved by the FCC and such notice shall be given to all persons attending a public sale. Debtor agrees that it will join and cooperate fully with Secured Party or with the successful bidder or bidders at any public or private sale in the filing of an application, and furnishing any additional information that may be required in connection with such application, requesting the FCC's prior approval of the assignment of such license or permit for the Station to Secured Party or the successful bidder or bidders. Debtor will take such further actions, or cause such further actions to be taken that may be necessary or desirable in connection with such approval. The parties agree that the Collateral and the permit or license shall not be assigned and transferred to separate parties.

Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of Debtor, and Debtor hereby waives (to the extent permitted by law) all rights of stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted.

#### ARTICLE 5. POWERS OF SECURED PARTY

Upon the occurrence of an Event of Default, Debtor appoints Secured Party as its true attorney in fact to perform any of the following powers, which are coupled with an interest, and are irrevocable until termination of this Security Agreement and may be exercised by Secured Party's officers and employees, or any of them, upon the occurrence of an Event of Default:

- (a) to perform any obligation of Debtor hereunder in Debtor's name or otherwise;
- (b) to give notice of Secured Party's rights in the Collateral, to enforce the same, and make extension agreements with respect thereto;
- (c) to release persons liable on the Collateral and to compromise disputes in connection therewith;
- (d) to release security;
- (e) to resort to security in order;
- (f) to prepare, execute, file, record or deliver notes, assignments, schedules, designation statements, financing statements, continuation statements, termination statements, statements of assignment and applications or registrations or like papers to perfect, preserve or release Secured Party's interest in the Collateral;
- (g) to verify facts concerning the Collateral by inquiry of obligators thereon, or otherwise;
- (h) to endorse, collect, deliver and receive payment under insurance claims;
- (i) to prepare, adjust, execute deliver and receive payment under insurance claims;
- (j) to exercise all rights, powers and remedies which Debtor would have, but for this Security Agreement, under all of the Collateral subject to this Security Agreement; and
- (k) to do all acts and things and execute all documents in the name of Debtor or otherwise deemed by Secured Party as necessary, proper and convenient with the preservation, perfection or enforcement of its rights hereunder.

## ARTICLE 6. REMITTANCES

Debtor agrees that upon the occurrence and during the continuance of an event which constitutes an Event of Default, all cash or proceeds received by Debtor as a result of the sale, lease or other disposition of any Collateral, whether received by Debtor in the exercise of its collection rights hereunder or otherwise, shall be, at Secured Party's discretion, remitted to Secured Party or deposited to an account for the benefit of Secured Party (according to its instructions) in the form received to the order of Secured Party or for collection in accordance with Secured Party's instructions) not later than the banking business day following the day of receipt, to be held as security for the payment of the Obligations secured hereby and applied by Secured Party as provided in Article 7 hereof. Debtor agrees not to commingle any such collections or proceeds with any of its other funds or property and agrees to hold the same upon an express trust for Secured Party until remitted to Secured Party.

## ARTICLE 7. APPLICATION OF PROCEEDS

Except as expressly provided elsewhere in this Security Agreement, all proceeds of the sale of the Collateral by Secured Party hereunder, and all other monies received by Secured Party pursuant to the terms of this Security Agreement (whether through the exercise by Secured Party of its rights of collection or otherwise), including, but not limited to, any awards or other amounts payable upon any condemnation or taking by eminent domain, shall be applied, as promptly as is practicable after the receipt thereof by Secured Party as follows:

FIRST: to the payment of all reasonable fees and expenses incurred by Secured Party or any custodian appointed hereunder, if not previously paid by Debtor, and all reasonable expenses incurred by Secured Party in connection with any sale of the Collateral, including, but not limited to, the reasonable expenses of taking, advertising, processing, preparing and storing the Collateral to be sold, all court costs and reasonable fees and expenses to be paid by Debtor pursuant to Article 16 of this Security Agreement, and to the payment of all amounts for which Secured Party is entitled to indemnification hereunder and all advances made by Secured Party hereunder to the account of Debtor and the payment of all costs and expenses paid or incurred by Secured Party in connection with the exercise of any right or remedy hereunder, to the extent that such advances, costs and expenses shall not theretofore have been reimbursed to Secured Party by Debtor;

SECOND: to the payment to Secured Party of the entire amount of the outstanding Obligations; and

THIRD: only if all of the foregoing have been paid in full, to Debtor.

Notwithstanding the sale or other disposition of any Collateral by Secured Party hereunder, Debtor shall remain liable for any deficiency.

#### ARTICLE 8. RIGHTS CUMULATIVE

The rights, privileges, powers and remedies of Secured Party shall be cumulative and no single or partial exercise of any of them shall preclude the further or other exercise of the same or any other of them. No delay or failure of Secured Party in exercising any right, power, privilege or remedy hereunder shall affect such right, power, privilege or remedy. Nor shall any single or partial exercise of any right, power, privilege or remedy or any abandonment or discontinuance of steps to enforce such right, power, privilege or remedy affect such right, power, privilege or remedy. Any waiver, permit, consent or approval of any kind by Secured Party of any default hereunder, or any such waiver of any provisions or conditions hereof, must be in writing and shall be effective only to the extent set forth in writing and shall not constitute a waiver of any subsequent or other default. Failure of Secured Party to insist upon strict performance or compliance by Debtor of any covenants, warranties or agreements in this Security Agreement shall not constitute a waiver of any subsequent or other failure to perform or comply with any covenants, warranties or agreement.

#### ARTICLE 9. CONTINUING AGREEMENT

This is a continuing agreement and shall remain in full force and effect and be binding upon Debtor and the successors and assigns of Debtor until all of the Obligations shall have been fully satisfied and discharged.

#### ARTICLE 10. REINSTATEMENT OF AGREEMENT

If Secured Party shall have proceeded to enforce its right under this Security Agreement and such proceedings shall have been discontinued or abandoned for any reason prior to the issuance of any judgment or award, then Debtor and Secured Party shall be restored respectively to their positions and rights hereunder, and all rights, remedies and powers of Debtor and Secured Party shall continue as though no such proceeding had been initiated. In the event of litigation arising under this Security Agreement, the prevailing party shall be entitled to, in addition to all other damages and remedies, reasonable attorney's fees.

## ARTICLE 11. ASSIGNMENT

Secured Party may assign and transfer any of the Obligations of Debtor and may deliver the Collateral, or any part thereof, to the assignee or transferee of its rights and interests under the Promissory Note who shall become vested with all the rights, remedies, powers, security interests and liens herein granted to Secured Party in respect thereto; and Secured Party shall thereafter be relieved and fully discharged from any liability or obligation under this Security Agreement. Secured Party shall provide Debtor with prompt notice at least thirty (30) days prior written notice of any such assignment or transfer. Debtor shall not have the right to assign this Security Agreement without the prior written consent of Secured Party which consent shall not be unreasonably withheld.

## ARTICLE 12. DUTIES WITH RESPECT TO COLLATERAL

With respect to the Collateral, Secured Party shall be under no duty to send notices, perform services, pay for insurance, taxes or other charges or take any action of any kind in connection with the management thereof and its only duty with respect thereto shall be to use reasonable care in its custody and preservation while in its possession and to dispose of the Collateral in a commercially reasonable manner, which shall not include any steps necessary to preserve the rights against prior parties.

## ARTICLE 13. PERFORMANCE OF OBLIGATIONS BY SECURED PARTY

If Debtor shall fail to do any act or thing which it has covenanted to do hereunder, or if any representation or warranty of Debtor shall be breached, Secured Party may (but shall not be obligated to) perform such act or thing on behalf of Debtor or cause it to be done or remedy any such breach, and there shall be added to the liabilities of debtor hereunder the cost or expense incurred by Secured Party in so doing, and any and all amounts expended by Secured Party in taking any such action shall be repayable to it upon demand being made to Debtor therefore.

## ARTICLE 14. MISCELLANEOUS

After due consideration and consultation with its attorneys, debtor voluntarily and knowingly, to the extent permitted by law, agrees as follows: (a) Debtor waives presentment, protest, notice of protest, notice of dishonor and notice of nonpayment with respect to the Collateral to which Secured Party is entitled hereunder; (b) Debtor waives any right to direct the

application of payments or security for the Obligations of Debtor hereunder, or the indebtedness of customers of Debtor, and any right to require proceedings against others or to require exhaustion of security; (c) Debtor consents to the extension or forbearance of the terms of the Obligations or indebtedness of customers, the release of substitution of security, and the release of guarantors, if any; and (d) Debtor waives notice or a judicial hearing prior to the exercise by Secured Party of any right or remedy provided by the Security Agreement and also waives its rights, if any, to set aside or invalidate any sale duly consummated in accordance with the provisions of this Security Agreement on the grounds that the sale was consummated without a prior judicial hearing.

#### ARTICLE 15. NOTICES

All notices or demands of any kind which may be required or which Secured Party desires to serve upon Debtor under the terms of this Security Agreement shall be served upon Debtor under the terms of this Security Agreement shall be served upon Debtor by personal service or by mailing a copy thereof by first class mail, postage prepaid, addressed to Debtor, at the address set forth Section 13.4 of the Asset Purchase Agreement.

#### ARTICLE 16. EXPENSES

Debtor agrees to pay on demand all reasonable fees, costs and expenses of Secured Party, or of any custodian or agent designated by Secured Party, including the reasonable fees and out-of-pocket expenses of legal counsel, independent public accountants and other necessary outside experts retained by Secured Party in connection with the enforcement of this Security Agreement or any other instrument or document delivered pursuant hereto.

#### ARTICLE 17. LAW APPLICABLE

This Security Agreement shall be governed by and construed in accordance with the laws of the State of Hawaii other than the conflicts of law provisions thereof.

#### ARTICLE 18. SEVERABILITY OF PROVISIONS

If any provisions of this Security Agreement shall be held to be prohibited or invalid, such provision shall be invalidated, without invalidating the remainder of such provisions or any remaining provisions of this Security Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement to be daily executed as of the day and year first written above.

Secured Party

By:\_\_\_\_\_

Its:

Debtor

By:\_\_\_\_\_

Its:

## **PLEDGE AGREEMENT**

**THIS PLEDGE AGREEMENT** (as amended, modified or supplemented from time to time, the “Pledge Agreement”) is made as of \_\_\_\_\_, \_\_\_, 2010 by George Hochman, William S. Poorman and William G. Mays (hereinafter collectively referred to as the “Pledgors”), in favor of Big Island Broadcasting, Inc. a Louisiana corporation (“Secured Party”).

### **WITNESSETH**

**WHEREAS**, the Pledgors are the owners of 100% of the currently issued and outstanding capital stock of Hochman Hawaii-Five, Inc., a Hawaii corporation which is 75% of the authorized, outstanding and issued capital stock of Hochman Hawaii-Five, Inc.;

**WHEREAS**, Hochman Hawaii-Five, Inc., a Hawaii corporation, has executed that certain Promissory Note of even date herewith (the “Promissory Note” or “Note”);

**WHEREAS**, the Pledgors, as owners of 100% of the currently issued and outstanding capital stock of Hochman Hawaii-Five, Inc. shall derive substantial benefits as a result of the Loan by the Secured Party to the Borrower;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

#### **SECTION 1. Definitions; Construction.**

(a) As used in this Pledge Agreement, the following terms shall have the following meanings:

**“Event of Default”**        The following events shall be referred to herein as Events of Default:

( a) Except for Pledgor’s failure to timely pay any interest or principal when due, after taking into consideration any applicable Grace Period as defined in the Note, which failure to pay cannot be cured and for which default Pledgor is not entitled to Notice, failure to perform any term, covenant or other agreement contained herein in any material respect; and continuance of such failure for thirty ( 30) days following written notice thereof from the Secured Party.

( b) Any representation or warranty contained herein shall be untrue in any material respect.

( c) The occurrence and continuation of an Event of Default under the Loan Documents.

**“Loan Documents”** shall mean this Pledge Agreement, the Security Agreement of even date herewith and the Note and all assignments, agreements, instruments or other documents delivered or to be delivered pursuant thereto.

**“Obligations”** shall mean, collectively, ( i) all indebtedness, obligations and liabilities of any type or nature, now existing or hereafter created, of Hochman Hawaii-Five, Inc., a Hawaii corporation, its successors or assigns, to the Secured Party arising under or in connection with the Loan



Documents including, without limitation, all obligations of the Borrower in respect of payment of the principal of and interest on the Note and all fees, expenses and other amounts payable by the Hochman Hawaii-Five, Inc., a Hawaii corporation, under the Loan Documents; ( ii) all liabilities and obligations of the Pledgor hereunder; ( iii) all costs, expenses and liabilities ( including, without limitation, attorneys' fees) that may be incurred or advanced by the Secured Party in any way in connection with the Obligations or with respect to enforcement thereof; and (iv) all refinancings, modifications, renewals or extensions of, or substitutions for, any of the foregoing.

"Pledged Collateral" shall mean the Shares of the Pledgor in Hochman Hawaii-Five, Inc. and all of Pledgor's right, title and interest in Hochman Hawaii-Five, Inc.( whether or not comprising part of Pledgor's Shares), whether now owned or hereafter acquired, including, without limitation, all of Pledgor's right, title and interest in: ( i) all the capital thereof and Pledgor's interest in all profits, losses, assets, dividends and other distributions to which Pledgor shall at any time be entitled in respect of such Shares; ( ii) all certificates and instruments representing or evidencing the Shares; ( iii) all other payments due or to become due to Pledgor in respect of such Shares, whether in respect of the Borrower or otherwise, whether as contractual obligations, damages, insurance proceeds or otherwise; ( iv) all of Pledgor's claims, rights, powers, privileges, authority, options, security interests, liens and remedies, if any, at law or otherwise in respect of such Shares, including without limitation, all of Pledgor's rights (expressly excluding, however, Pledgor's voting rights) as a stockholder of the Hochman Hawaii-Five, Inc.; ( v) all, present and future claims, if any, of Pledgor against Hochman Hawaii-Five, Inc. for moneys loaned or advanced, for services rendered or otherwise; ( vi) all of Pledgor's rights at law to exercise and enforce every right, power, remedy, authority, option and privilege of Pledgor relating to the Shares ( subject to obtaining any required consents from the FCC) expressly excluding, however, Pledgor's voting rights which are retained by Pledgor; ( vii) all other property hereafter delivered in substitution for or in addition to any of the foregoing, all certificates and instruments representing or evidencing such other property and all cash, securities, interest, dividends, distributions, rights and other property at any time and from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all thereof; and (viii) to the extent not otherwise included, all proceeds of any or all of the foregoing.

"Pledged Shares" shall mean all Shares pledged or required to be pledged hereunder.

"Shares" shall mean, with respect to the Pledgor, the shares of stock at any time owned by Pledgor in Hochman Hawaii-Five, Inc.

"UCC" shall mean the Uniform Commercial Code as in effect in the State of Hawaii from time to time.

(b) Unless otherwise defined, herein or the context otherwise requires, terms defined in the Loan Agreement which are used herein have the meanings assigned to them therein.

## **SECTION 2. Pledge.**

**2.1 Pledge.** The Pledgor hereby grants and pledges to the Secured Party a first priority continuing security interest in, and as part of such grant and pledge, hereby transfers and assigns to the Secured Party, the Pledged Collateral, whether now existing or hereafter acquired. Simultaneously with the execution hereof, the Pledgor hereby delivers to the Secured Party certificates evidencing the Pledged Shares now owned by the Pledgor.

## **2.2 Certificated and Uncertificated Shares**

(a) If the Pledgor shall acquire (by purchase, distribution or otherwise) any additional Shares at any time or from time to time after the date hereof, Pledgors will forthwith pledge such Shares as security to the Secured Party hereunder.

(b) To the extent any Shares (whether now owned or hereafter acquired) are certificated, Pledgors shall promptly deliver to the Secured Party their certificates therefore, accompanied by such instruments of transfer as are acceptable to the Secured Party, and will promptly thereafter deliver to the Secured Party a certificate describing such Shares and certifying that the same have been duly pledged to the Secured Party hereunder.

(c) To the extent any Shares (whether now owned or hereafter acquired) are uncertificated, Pledgors shall promptly notify the Secured Party thereof, and shall promptly take all actions required to perfect the security interest of the Secured Party under applicable law ( including, in any event, any actions required for the perfection of security interests in securities or general intangibles under the provisions of Articles 8 and 9 of the UCC).

(d) Pledgors further agree to cause any intermediary holder of the Shares, including but not limited to any broker, custodian or other agent, to agree to take instructions from the Secured Party and to agree to the surrender of control over the Shares in its possession or under its control in favor of the Secured Party in an Event of Default.

(e) Pledgors further agree to take such actions as the Secured Party deems necessary or reasonably desirable to effect the foregoing and to permit the Secured Party to exercise any of its rights and remedies hereunder.

## **SECTION 3. Security for Obligations.**

This Pledge Agreement is made by Pledgors to secure the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of all of the Obligations.

## **SECTION 4. Distributions.**

(a) Upon the occurrence and during the continuance of an Event of Default or an event which, with the giving of notice or the lapse of time, or both, would constitute an Event of Default, all rights of the Pledgors to receive and retain distributions and interest paid in respect of the Pledged Collateral shall cease, and all such rights shall thereupon become vested in the Secured Party who shall thereupon have the sole right to receive such distributions.

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

Pledgors represent and warrant as follows:

(a) The Pledged Shares have been duly and validly issued, fully paid and nonassessable, and are duly and validly pledged hereunder. The Pledged Shares constitute one hundred percent (100%) of the currently issued and outstanding capital stock of the Borrower. being 75% of the authorized , outstanding and issued capital stock of the Borrower. There are no outstanding

agreements, arrangements, options, commitments or understandings of any kind affecting or relating to the voting, issuance, purchase, redemption, repurchase, sale or transfer of any of the capital stock or other securities of the Borrower with the exception on the transfer restrictions that allow the Pledgors a right of first refusal and an option to purchase stock held by other pledgors.

(b) The Pledgors are the sole legal, record and beneficial owner of the Pledged Collateral, free and clear of any lien, security interest, option, economic interest, or other charge or encumbrance of every nature whatsoever, except for the security interests created by this Pledge Agreement, and the Pledgors have the full power, authority, and unqualified right to pledge and grant a security interest in the Pledged Collateral.

(c) This Pledge Agreement is the legal, valid and binding obligation of the Pledgors, enforceable against the Pledgors in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general equitable principles. The execution, delivery and performance by the Pledgors of this Pledge Agreement do not and will not conflict with or violate any law, ordinance, regulation, order, award, judgment, injunction or decree applicable to Pledgors or the Borrower, or conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Borrower's articles of incorporation or bylaws, or any contract, agreement, lease, commitment, or understanding to which Pledgors are a party or by which Pledgors are bound.

(d) No approval, consent or other action by the Pledgors, any governmental authority, or any other person or entity is or will be necessary to permit the valid execution, delivery and performance of this Pledge Agreement by the Pledgors (other than any consent required by the FCC as contemplated by section 8 hereof). No Pledged Shares are subject to any defense, offset or counterclaim, nor have any of the foregoing been asserted or alleged against the Pledgors by any Person.

(e) The pledge and assignment of the Pledged Shares of the Pledgors pursuant to this Pledge Agreement, together with the relevant filings or recordings, creates a valid, perfected and continuing first priority security interest in such Shares and the entire proceeds thereof, subject to no prior lien or encumbrance or to any agreement purporting to grant to any third party a lien or encumbrance on or economic interest in the property or assets of the Pledgors which would include the Pledged Collateral.

(f) There is no action, suit or proceeding at law or in equity or by or before any Governmental Authority, arbitral tribunal or other body now pending, or to the best knowledge of the Pledgor, threatened, against the Pledgor or any of Pledgor's properties, rights or assets, which could reasonably be expected to be adversely determined, and either individually or in the aggregate, would reasonably be expected to have a material adverse effect on the business or operations of the Borrower or upon the rights of the Pledgors to the Shares.

## **SECTION 6. Further Assurances.**

Pledgors agree that at any time and from time to time, at the expense of the Pledgors, the Pledgors will promptly execute, deliver, file and refile under the UCC such financing statements, continuation statements and other instruments in such offices as the Secured Party may reasonably deem necessary or appropriate, and take all further related action that may be reasonably necessary or desirable, or that the Secured Party may reasonably request, in order to perfect and protect (and continue to perfect and protect) any security interest granted or purported

to be granted hereby or to enable the Secured Party to exercise and enforce its respective rights and remedies hereunder with respect to any Pledged Collateral. The Pledgors further authorize the Secured Party to file financing statements and amendments thereto relative to all or any part of the Pledged Collateral without the signature of Pledgors where permitted by law.

#### **SECTION 7. Transfers and Other Liens; Additional Shares.**

(a) Pledgors shall not sell, assign or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral.

(b) Pledgors shall not create or permit to exist any lien, security interest, economic interest, or other charge or encumbrance upon or with respect to any of the Pledged Collateral.

(c) Pledgors shall pledge hereunder, immediately upon their acquisition (directly or indirectly) thereof, any and all additional shares of Hochman Hawaii-Five, Inc.

(d) Pledgors shall not take or permit to be taken any action in connection with the Pledged Collateral or otherwise which might impair the value of the interests or rights of the Pledgors therein or which might impair the interest or rights of the Secured Party therein or with respect thereto.

#### **SECTION 8. Secured Party Appointed Attorney- in Fact.**

Pledgors hereby appoint the Secured Party as Pledgors' attorney-in-fact, with full authority in the place and stead of the Pledgors and in the name of the Pledgors or otherwise, from time to time but only after the occurrence and only during the continuance of an Event of Default, in the Secured Party's discretion to take any action, and to execute any instrument which the Secured Party may reasonably deem necessary or advisable to accomplish the purposes of this Pledge Agreement, including, without limitation, to ask, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in connection with the Pledged Collateral, to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection therewith, to file any claims or take any action or institute any proceedings that the Secured Party may deem to be necessary or desirable for the collection thereof or to enforce compliance with the terms and conditions of this Pledge Agreement, and to make and execute all conveyances, assignments and transfers of the Pledged Collateral sold pursuant to this Pledge Agreement, and the Pledgors hereby ratify and confirm all that the Secured Party, as said attorney- in- fact, shall do by virtue hereof. Nevertheless, the Pledgors shall, if so requested by the Secured Party, ratify and confirm any sale or sales by executing and delivering to the Secured Party, or to such purchaser or purchasers, all such applications, instruments, certificates or other documents as may, in the judgment of the Secured Party, be advisable for the purposes of this Section 8, and the Secured Party shall obtain any consent of the FCC required prior to any transfer of the Pledged Collateral. Notwithstanding the foregoing, except as required by applicable law, the Secured Party shall not be obligated to exercise any right or duty as attorney-in-fact, and shall have no duties to the Pledgors in connection therewith.

#### **SECTION 9. Secured Party May Perform.**

If the Pledgors fail to perform any agreement contained herein, the Secured Party may perform, or cause the performance of, such agreement, and the expenses of the Secured Party incurred in connection therewith shall be payable by Pledgors under Section 14.

## **SECTION 10. Reasonable Care.**

The Secured Party shall be deemed to have exercised reasonable care in the custody and preservation of the Pledged Collateral in its possession if the Pledged Collateral is accorded treatment substantially similar to that which the Secured Party accords its own property of similar class or kind, it being understood that the Secured Party shall not have any responsibility for (i) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Pledged Collateral, whether or not the Secured Party has or is deemed to have knowledge of such matters, or (ii) taking any necessary steps to preserve rights against any parties with respect to any Pledged Collateral.

## **SECTION 11. Remedies Upon Default.**

If any Event of Default shall have occurred and be continuing:

(a) The Secured Party may exercise in respect of the Pledged Collateral, in addition to other rights and remedies provided for herein or otherwise available to the Secured Party, all the rights and remedies of a secured party under the UCC and other applicable law, and the Secured Party may also, without notice except as specified below, sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of the offices of the Secured Party or elsewhere, for cash, on credit or for future delivery, and upon such other terms as are commercially reasonable. Pledgors agree that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to the Pledgors of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. If a private sale is proposed, all competing purchasers shall have an opportunity to make and increase their offers for such Pledged Collateral, during such ten (10) days and during such additional time as the Secured Party may allow, and at any time prior to the completion of such a sale, the Pledgors may redeem all of the Pledged Collateral by payment in full of the Obligations. The Secured Party shall not be obligated to make any sale of Pledged Collateral regardless of a notice of sale having been given. The Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefore, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) Any cash held by the Secured Party as Pledged Collateral and all cash proceeds received by the Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Pledged Collateral may, in the discretion of the Secured Party, be held by the Secured Party as collateral for, and/ or then or at any time thereafter applied in whole or in part by the Secured Party against, all or any part of the Obligations in accordance with this Section 11.

(c) The Secured Party shall be entitled to transfer all or any part of the Pledged Shares into the Secured Party's name or the name of its nominee or nominees.

(d) The proceeds of any collection, sale, enforcement or other realization of all or any part of the Pledged Collateral, and any other cash at the time held by the Secured Party pursuant to the terms of this Pledge Agreement, shall be applied to the payment of the Obligations in the Note.

## **SECTION 12. FCC Compliance.**

In the event that the Secured Party elects to exercise its remedies upon an event of Default as contemplated by Section 1.1 hereof or under any other provision of this Pledge Agreement, the Secured Party shall comply in all material respects with the Communications Act of 1934, as

amended, and all applicable rules and regulations of the FCC, including, without limitation, obtaining any required consent of the FCC prior to the exercise of such remedies. The parties hereto acknowledge that until the prior requisite FCC consent is obtained, the voting rights of the Pledgors shall remain with the Pledgors, even in the Event of Default, and that the requisite prior FCC consent shall be obtained prior to the exercise of stockholder rights by the purchaser at a public or private sale, if the exercise of such rights would constitute a transfer of control of the Borrower.

### **SECTION 13. Expenses.**

The Pledgors will upon demand pay to the Secured Party the amount of any and all reasonable expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, which the Secured Party may reasonably incur in connection with (i) the sale of, collection from, or other realization upon, any of the Pledged Collateral, (ii) the exercise or enforcement of any of the rights of the Secured Party hereunder, or (iii) the failure by the Pledgors to perform or observe any of the provisions hereof.

### **SECTION 14. Security Interest Absolute.**

All rights of the Secured Party and security interests hereunder, and all obligations of the Pledgors hereunder, shall be absolute and unconditional irrespective of;

- (a) any lack of validity or enforceability of the Note or any other Loan Document;
- (b) any change in the time, manner or place of payment of, or in any other terms of, all or any of the Obligations or any other amendment or waiver of or any consent to or any departure from the Note or any other Loan Document;
- (c) any exchange, release or non- perfection of any other collateral, or any release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Obligations; or
- (d) any other circumstance which might otherwise constitute a defense available to, or a discharge of, Pledgors or any co-obligor, guarantor or third party pledgor.

### **SECTION 15. Continuing Security Interest; Transfer of Note.**

This Pledge Agreement shall create a continuing security interest in the Pledged Collateral and shall (i) be binding upon the Pledgors, the Pledgors' heirs, administrators, successors and assigns, and (ii) inure to the benefit of the Secured Party and its successors, transferees, and assigns. Without limiting the generality of the foregoing clause (ii), the Secured Party may assign or otherwise transfer the Note or the Loan to any other person or entity, subject to the terms of the Loan Agreement and such assignees shall thereupon become vested with all the benefits in respect thereof granted to the Secured Party herein or otherwise.

### **SECTION 16. Successors and Assigns; Assignment; Governing Law.**

- (a) The Pledge Agreement and all obligations of the Pledgors hereunder shall be binding upon the Pledgors and their respective personal representatives, successors and assigns, and shall, together with the rights and remedies of the Secured Party hereunder, inure to the benefit of the Secured Party and their respective personal representatives, successors and assigns.

(b) The Secured Party may assign this Pledge Agreement or any of their rights and powers hereunder (and such rights and powers shall inure to the benefit of their personal representatives, successors and assigns), and, subject to Section 12 hereof, the Secured Party may assign and/or deliver to any such assignee of the Secured Party any of the Pledged Collateral and, in the event of such assignment, the assignee hereof or of such rights and powers (and of such Pledged Collateral, if any of such pledged Collateral be so assigned and/or delivered), shall have the rights and remedies as if originally named herein in place of the Secured Party, and in the case of any such assignment or delivery of Pledged Collateral to such assignee, the Secured Party shall, as to the period thereafter, be fully discharged from all responsibility with respect to any such Pledged Collateral so assigned and/ or delivered.

(c) This Pledge Agreement, and all rights, obligations and liabilities arising hereunder, and any claims and disputes relating thereto shall be governed by and construed in accordance with the laws of the State of Hawaii (but not including the choice of law rules thereof).

#### **SECTION 17. Notices.**

All notices and other communications required or permitted hereunder shall be in writing and shall be delivered personally, or sent by certified, registered, or express mail, postage prepaid, to the parties at the addresses set forth below ( or to such other addresses as the parties may specify by due notice to the other parties). Notices or other communications given by certified, registered, or express mail shall be deemed given three ( 3) business days after the date of mailing. Notices or other communications sent in any other manner shall be deemed given when actually received.

(a) if to Secured Party, then to:

Joel Sellers, president  
Big Island Broadcasting, Inc.  
8215 Birch Street  
New Orleans, LA 70118  
Facsimile: 504-865-1714

(b) if to Pledgors, then to:

George Hochman  
4339 Kalaheo Drive  
Kalaheo, Hawaii 96741  
Facsimile: (808) 332-7830

William S. Poorman  
11863 East 300 South  
Zionsville, Indiana 46077  
Facsimile: (317) 873-2296

William G. Mays  
5611 East 71st Street  
Indianapolis, Indiana 46222  
Facsimile: (317) 845-8410

#### **SECTION 18. No Waiver Cumulative Remedies; Amendments.**

The Secured Party shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder and no waiver shall be valid unless in writing, signed by the Secured Party and then only to the extent therein set forth. A waiver by the Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Secured Party would otherwise have had on any future occasion. No failure to exercise nor delay in exercising on the part of the Secured Party of any right, power or privilege hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies hereunder provided are cumulative and may be exercised singly or concurrently, and are not exclusive of any rights and remedies provided by law. None of the terms or provisions of this Pledge Agreement may be waived, altered, modified or amended, nor any consent given thereunder, except by an instrument in writing, duly executed by the Secured Party.

#### **SECTION 19. Termination.**

When all the Obligations have been fully, finally indefeasibly paid, discharged and returned (and the commitments have expired or have been terminated in full), or the Secured Party has expressly assumed the Obligations, or at such earlier time as the Secured Party may specify in writing, this Pledge Agreement (including without limitation the power of attorney granted in Section 8 hereof) shall terminate, and the Secured Party shall forthwith caused to be assigned, transferred and delivered, against receipt but without any recourse, warranty or representation whatsoever, any remaining Pledged Collateral, or any money received in respect thereof, to or on the order of the Pledgors.

#### **SECTION 20. Acknowledgment.**

The Borrower acknowledges receipt of a copy of this Pledge Agreement and of notice of the pledge by Pledgor of the Pledged Collateral. The Borrower further consents to the registration of Pledgors' pledge of such Pledged Collateral to the Secured Party on the books of Hochman Hawaii-Five, Inc. and the filing of this Pledge Agreement with the minutes of stockholders' meetings.

#### **SECTION 22. WAIVER OF JURY TRIAL AND SETOFF; CONSENT TO JURISDICTION.**

THE PLEDGORS HEREBY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY LITIGATION IN ANY COURT WITH RESPECT TO, IN CONNECTION WITH, OR ARISING OUT OF THIS PLEDGE AGREEMENT, ANY OTHER LOAN DOCUMENT, THE PLEDGED COLLATERAL OR ANY INSTRUMENT OR DOCUMENT DELIVERED PURSUANT TO THIS PLEDGE AGREEMENT, OR THE VALIDITY, PROTECTION, INTERPRETATION, COLLECTION OR ENFORCEMENT THEREOF, OR ANY OTHER CLAIM OR DISPUTE HOWSOEVER ARISING, BETWEEN THE PLEDGORS ON THE ONE HAND, AND THE SECURED PARTY ON THE OTHER HAND; AND THE PLEDGORS HEREBY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE RIGHT TO INTERPOSE ANY SETOFF OR COUNTERCLAIM OR CROSS- CLAIM IN CONNECTION WITH ANY SUCH LITIGATION, IRRESPECTIVE OF THE NATURE OF SUCH SETOFF, COUNTERCLAIM OR CROSS- CLAIM EXCEPT TO THE EXTENT THAT THE FAILURE SO TO ASSERT



ANY SUCH SETOFF, COUNTERCLAIM OR CROSS- CLAIM WOULD PERMANENTLY PRECLUDE THE PROSECUTION OF OR RECOVERY UPON SAME. THE PLEDGORS HEREBY IRREVOCABLY CONSENT TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF HAWAII AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, OF ANY FEDERAL COURT LOCATED IN THE STATE OF HAWAII IN CONNECTION WITH ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY ONE OR MORE OF THIS PLEDGE AGREEMENT, ANY OTHER LOAN DOCUMENT, OR ANY DOCUMENT OR INSTRUMENT DELIVERED PURSUANT TO THIS PLEDGE AGREEMENT OR ANY OTHER LOAN DOCUMENT.

### **SECTION 23. Counterparts.**

To facilitate execution, this Pledge Agreement may be executed in as many counterparts as may be required; and, it shall not be necessary that the signatures of, or on behalf of, each party, or that the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each party; or that the signatures of the persons required to bind any party, appear on one or more of the counterparts. Delivery of an executed counterpart of a signature page to this Pledge Agreement by facsimile shall be effective as delivery of a manually executed signature page hereto. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Pledge Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the parties hereto.

### **SECTION 24. Entire Agreement.**

This Pledge Agreement and the other Loan Documents constitute the entire agreement between the parties hereto with respect to the subject matter hereof: Any agreement hereafter made shall be ineffective to change or modify this Pledge Agreement, in whole or in part, unless such agreement is in writing and signed by the party against whom enforcement of the change or modification is sought.

### **SECTION 25. Captions.**

The captions of the various sections and subsections of this Pledge Agreement have been inserted for convenience of reference only; such captions are not a part of this Pledge Agreement, and shall not be deemed in any manner to explain, enlarge or restrict any of the provisions of this Pledge Agreement.

### **SECTION 26. Severability.**

If any part of any provision of this Pledge Agreement shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Pledge Agreement. It is the intention of the Pledgors and the Secured Party to comply with all applicable laws, including without limitation, FCC Laws.

Accordingly, it is agreed that notwithstanding any provision to the contrary in this Agreement, no provision shall be deemed to authorize or require any action or inaction which would violate any applicable law, including, without limitation, any FCC Laws. If the exercise of any right or remedy hereunder by the Secured Party requires prior approval, consent, or notification of the FCC, the Pledgors and the Secured Party shall undertake to obtain or provide such approval, consent or notification and to cooperate fully with the Secured Party in furtherance thereof.

**SECTION 28. Additional Actions and Documents.**

Each of the parties hereto hereby agrees to take or cause to be taken such further actions, to execute, deliver and file or cause to be executed, delivered and filed such further documents and instruments, and to use reasonable efforts to obtain such consents, as may be necessary or as may be reasonably requested in order to fully effectuate the purposes, terms and conditions of this Pledge Agreement.

**SECTION 29. Construction.**

Each party hereto hereby acknowledges that all parties hereto participated equally in the negotiation and drafting of this Pledge Agreement and that, accordingly, no court construing this Pledge Agreement shall construe it more stringently against one party than against the others.

**SECTION 30. Pronouns.**

All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or entity may require.

**SECTION 31. Survival.**

It is the express intention and agreement of the parties hereto that all covenants, agreements, statements, representations, warranties and indemnities made by the Pledgors and the Secured Party in this Pledge Agreement shall survive the execution and delivery of this Pledge Agreement

**IN WITNESS WHEREOF**, the Pledgor and the Secured Party have executed or have caused to be executed this Pledge Agreement as of the date first above written.

**PLEDGORS:**

---

**GEORGE HOCHMAN**

---

**William S. Poorman**

---

**William G. Mays**

**ACCEPTED:**

---

**JOEL SELLERS, PRESIDENT**  
Big Island broadcasting, Inc.

**STATE OF HAWAII**                    )  
  )  
**COUNTY OF MAUI**                    )           **ss.**

On this \_\_\_\_ day of \_\_\_\_\_, 2008, before me personally appeared  
GEORGE HOCHMAN, to me personally known, who, being by me duly sworn or affirmed, did  
say that he executed the foregoing instrument as his free act and deed.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public, State of Hawaii  
My commission expires: \_\_\_\_\_

**STATE OF INDIANA**                    )  
  )  
**COUNTY OF \_\_\_\_\_**                    )           **ss.**

On this \_\_\_\_ day of \_\_\_\_\_, 2008, before me personally appeared William  
S. Poorman, to me personally known, who, being by me duly sworn or affirmed, did say that she  
executed the foregoing instrument as her free act and deed.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public, State of Indiana  
My commission expires: \_\_\_\_\_

**STATE OF INDIANA**                    )  
  )  
**COUNTY OF \_\_\_\_\_**                    )           **ss.**

On this \_\_\_\_ day of \_\_\_\_\_, 2008, before me personally appeared William  
G. Mays, to me personally known, who, being by me duly sworn or affirmed, did say that he  
executed the foregoing instrument as his free act and deed.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public, State of Indiana  
My commission expires: \_\_\_\_\_

## PROMISSORY NOTE

US \$450,000.00

\_\_\_\_\_, 20\_\_\_\_

FOR VALUE RECEIVED, Hochman Hawaii-Five, Inc., a Hawaii corporation, (the "Maker" or the "Borrower"), promises to pay to the order of Big Island Broadcasting, Inc., a Louisiana corporation, or its assigns (the "Lender" or the "Holder") at 8215 Birch Street, New Orleans, LA 70118 or at such other place as the Holder of this Note may from time to time designate, the principal amount of FOUR HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (US\$450,000.00) accruing interest at a rate of six percent (6%) per annum from the date hereof until paid in full, as follows: The annual percentage rate (APR) shall be six percent [6%] with payments of interest only for the first twelve payments and payments of principal and interest amortized over a ten year period, thereafter. The twelve interest only monthly payments shall be TWO THOUSAND TWO HUNDRED FIFTY and 00/100 DOLLARS (\$2,250.00). Thereafter, for the next ten years, the monthly payments of principal and interest shall be FIVE THOUSAND TWO HUNDRED TWENTY FOUR AND 91/100 DOLLARS (\$5,224.91). This Note shall be secured by a Security Agreement and a Stock Pledge Agreement which are exhibits to the Asset Purchase Agreement, along with a copy of this Promissory Note, between the parties. This Note shall be secured by a Security Agreement and a Stock Pledge Agreement, which are exhibits to the Asset Purchase Agreement, along with a copy of this Promissory Note, between the parties. The first payment shall be made within TEN (10) days of the date of the closing of the Asset Purchase Agreement between Maker and Holder and subsequent payments shall be due on the first day of each month after the date of the initial payment. Should the Petition for Reconsideration, referenced in Section 2.4 of the Asset Purchase Agreement, not be dismissed prior to the end of the first year of payments pursuant to this Promissory Note, the Holder agrees to continue interest-only payments until the Petition for Reconsideration is dismissed. In the event the Petition for Reconsideration has not been dismissed by the FCC during the first year of Buyer's payment obligation, with the FCC's decision on the matter favorable to Seller, the Parties agree to extend the interest only feature of this Promissory Note until the FCC dismisses that Petition for Reconsideration with the FCC's decision on the matter favorable to Seller. Should the FCC's decision regarding the Petition for Reconsideration be unfavorable to Seller and the FCC license for the Station revoked, the Promissory Note shall be cancelled by the Holder and the obligation of Buyer shall be terminated, without recourse, on the date that the FCC's decision becomes effective. In such an event, Buyer shall not be entitled to any reimbursement for any expense including any monies spent on interest payments pursuant to the Promissory Note. Should the FCC's decision on the Petition for Reconsideration not result in revocation of the Station's license but, instead, require an FCC hearing, Seller shall pay any necessary legal costs associated with defending the Station's license at such hearing. During the pendency of such litigation, the Promissory Note shall remain in full force and effect. If after such hearing, the FCC revokes the license, the Promissory Note will be cancelled as outlined in this Section. Any fines or forfeitures imposed on the Station as a result of the Petition to Deny shall be paid for by

Seller. Any conflict between provisions of this Promissory Note and this Asset Purchase Agreement shall be resolved by the language of the Asset Purchase Agreement.

Notwithstanding the provision for the required monthly payment, the entire outstanding principal balance hereof, together with all accrued interest and unpaid interest hereon, shall be due and payable in full upon the sale or transfer of a controlling interest of the Maker's stock, or the sale or transfer of substantially all of the assets of the Hochman Hawaii-Five, Inc or the sale or transfer of substantially all of the assets of FCC facility ID No. 164100.

All payments hereunder shall be made in lawful money of the United States of America, without offset, by Maker's check.

The unpaid principal amount of this Note may be prepaid in whole or in part at any time or times without premium or penalty. Unless the Lender otherwise elects, all prepayments shall be applied first, to the payment of accrued and unpaid interest, and then, to the unpaid principal balance of this Note.

This Note evidences Buyer's business obligation to Seller for the purpose of purchasing all of the assets of an FM broadcast Station on Haiku, Hawaii, FCC Facility ID No. 164100 pursuant to the Resolution of the Directors of Big Island Broadcasting, Inc. a Louisiana corporation dated \_\_\_\_\_ and pursuant to the Resolution of the Directors of Hochman Hawaii-Five, Inc., a Hawaii corporation dated \_\_\_\_\_. This Note, Security Agreement and the Pledge Agreement are hereinafter collectively referred to as the "Loan Documents". Neither references herein to the Loan Documents nor to any provision thereof shall affect or impair the absolute and unconditional obligation of the Maker to pay the principal amount hereof, together with interest accrued thereon and all other sums payable hereunder, when due.

The occurrence of any one or more of the following shall constitute an event of default ("Event of Default") hereunder:

- (1) Failure to make payment, when due, within ten (10) business days of the due date (herein "Grace Period").
- (2) Failure to pay the outstanding principal balance of this Note when due within the Grace Period, whether at stated maturity, by acceleration, by notice of prepayment or otherwise; or

Upon the occurrence of any Event of Default, and in every such event, the Lender may, at its option, with five (5) days written notice to Borrower and an additional thirty (30) days to cure the default, declare the Note to be, and the Note shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower and exercise all other rights, powers and remedies available under the Loan Documents, at law or in equity. Each right, power and remedy of the Holder as provided for in this Note is in addition to, and not in substitution for, every other right, power and remedy exercisable by the Holder upon an event of default under the Loan Agreement or any other Loan

Document, or as provided by applicable law. No single or partial exercise by the Holder of any right, power or remedy referred to above shall preclude any other or further exercise thereof or the exercise of any other of such rights, powers and remedies. No delay or omission on the part of the Holder to exercise such option or to pursue any such rights, powers or remedies shall constitute a waiver of such option or such other remedies or of the right to exercise any of the same in the event of any subsequent Event of Default hereunder.

In the event that Maker fails to make any payment (whether of principal, interest, or any other sum) on the date such payment is due and payable pursuant to this Note or any other Loan Document, and such failure shall continue after the Grace Period, defined above, the Maker shall pay to the Holder, upon demand therefore, a late payment fee (the "Late Payment Fee") equal to five percent (5%) of the amount of such payment. The Late Payment fee shall be in addition to, and not in lieu of, any other right or remedy the Holder may have and is in addition to any reasonable fees and charges of any agents or attorneys which the Holder is entitled to pursuant to the terms hereof or by law.

Any payment on this Note coming due on a Saturday, a Sunday, or a day which is a legal holiday in the place at which a payment is to be made hereunder shall be made on the next succeeding day which is a business day in such place, and any such extension of the time of payment shall be included in the time of computation of interest hereunder.

The Maker hereby waives presentment, protest, demand, notice of dishonor, and all other notices, and all defenses and pleas on the grounds of any extension or extensions of the time or payments or the due dates of this Note, in whole or in part, before or after maturity, with or without notice. No renewal or extension of this Note, and no delay in enforcement of this Note or in exercising any right or power hereunder, shall affect the liability of the Maker.

Whenever used herein, the words "Maker", "Lender" and "Holder" shall be deemed to include their respective successors and assigns.

This Note shall be governed by and construed under and in accordance with the laws of the State of Hawaii (but not including the choice of law rules thereof).

IN WITNESS WHEREOF, the undersigned has caused this Note to be duly executed on its behalf as of the day and year hereinabove set forth.

WITNESS:

**Hochman Hawaii-Five, Inc.**

\_\_\_\_\_

By: \_\_\_\_\_  
George Hochman, President