

## ASSET PURCHASE AGREEMENT

THIS AGREEMENT entered into this 21st day of November, 2012, is made by and between *ANDREW DISTERHAFT* ("Seller"), and *Hometown Broadcasting, LLC*, a Wisconsin corporation, ("Buyer").

### WITNESSETH:

**WHEREAS**, Seller is the holder of an FCC Station License for FM Translator Station W247AZ, Berlin, WI ("the Station") and;

**WHEREAS**, Buyer desires to acquire the Station, all federal, state, and local licenses, authorizations and permits owned by the Seller as of the date hereof; and

**WHEREAS**, consummation of the transaction contemplated herein requires the prior consent and approval of the Federal Communications Commission;

**NOW THEREFORE**, in consideration of the premises, and the mutual promises and covenants herein contained, the parties, intending to be legally bound, agree as follows:

**1. ASSETS SOLD AND PURCHASED.** Seller, on the Closing Date at the Closing Place, will sell, transfer, convey, assign and deliver to Buyer, free and clear of all liens, claims and encumbrances the Station License, an unofficial copy of which is attached hereto as Appendix A and made a part hereof, together with Seller's right to the call letters for the station, and the files, records, engineering studies, applications to the FCC and other government agencies, and reports of Seller pertaining to the Station License.

**2. EXCLUDED ASSETS.** It is understood and agreed that the assets being sold to Buyer do not include cash on hand or in bank, contracts and other liabilities, accounts receivable, notes receivable or securities owned by Seller, which assets shall remain the property of Seller.

### **3. PURCHASE PRICE AND METHOD OF PAYMENT.**

(a) Purchase Price. The purchase price to be paid by Buyer to Seller for all of the Station, rights and records to be acquired hereunder shall be the sum of Six Thousand and No/100 Dollars (\$6,000.00). The Purchase Price shall be paid by Buyer to Seller in full on the Closing Date. The Closing shall be held no earlier than the 5<sup>th</sup>, nor later than the 10<sup>th</sup> business day after the FCC's consent to an Assignment Application for assignment of the Station becomes a "Final Order", i.e., no longer subject to reversal, reconsideration or appeal by any third party, or by the FCC on its own motion. However, the Parties may close at any time after the FCC's initial

grant of its consent, per their mutual agreement. Buyer shall pay the filing fee required by the FCC in connection with the filing of the assignment application.

#### **4. CONSENT OF THE COMMISSION.**

(a) Prior Consent Required. It is specifically understood and agreed that the consummation of this Agreement shall be subject to the prior consent of the Commission.

(b) Filing and Prosecution of Assignment Application. Upon the execution of this Agreement, Buyer and Seller will proceed to expeditiously prepare and file with the Commission the requisite Assignment Application to secure such consent, together with such any necessary instruments and documents required by the Commission. The parties further agree to prosecute said Application with diligence, and to cooperate with each other in good faith and to use their best efforts to obtain the requisite consent and approval promptly and to carry out the provisions of this Agreement.

**5. LEGAL NOTICE OF ASSIGNMENT APPLICATION.** Upon the filing of the Assignment Application, Seller shall be responsible for, and shall take the necessary steps to provide, such Legal Notice concerning the filing as is required by the Rules of the Commission.

#### **6. TERMINATION OF AGREEMENT.**

(a) If the Commission has not acted upon and granted its consent and approval to the Assignment Application within six (6) months from the date of a Commission Public Notice announcing the application as accepted for filing, this Agreement, at the option of either Seller or Buyer, and upon ten (10) days written notice to the other party, may be terminated, and will become null and void; provided, however, that the party giving such notice is not in breach of any provision of this Agreement.

**7. POSSESSION AND CONTROL.** Between the date of this Agreement and the Closing Date, Buyer shall not control the operation of Station, but such operation shall be the responsibility of Seller. Buyer shall, however, be entitled to reasonable inspection of the premises and assets, and to notice of any unusual developments with the purpose that an uninterrupted and efficient transfer of ownership may be accomplished. It is further understood and agreed that, effective as of the Closing Date and thereafter, Seller shall have no control over, nor right to intervene or participate in, the operation of the Station.

**8. SPECIFIC PERFORMANCE.** The parties mutually understand and agree that the assets and property to be transferred pursuant to this Agreement are unique and cannot readily be

purchased on the open market. For that reason, among others, Buyer will be irreparably damaged in the absence of its consummation. In the event of any controversy regarding the rights of Buyer under this Agreement, said rights, as well as the obligations of Seller, shall be enforceable by decree of specific performance, subject to Commission consent. Buyer shall also be entitled to recover from Seller the costs of enforcement of its rights to specific performance under this Agreement.

## **9. SELLER'S COVENANTS, REPRESENTATIONS AND WARRANTIES.**

Seller represents and covenants to Buyer that:

(a) Authorization. Seller has full power and authority to enter into this Agreement; and the Agreement constitutes a valid and binding obligation of Seller in accordance with its terms.

(b) Station License. Seller is now and on the Closing Date shall be the holder of the Station License as defined herein and contained in Appendix A. The License is now and on the Closing Date shall be, in full force and effect unimpaired by any act or omission of Seller, employees or agents. There is not now and on the Closing Date there shall not be pending or threatened any action by the Commission to revoke, cancel, rescind, or the Station License.

(c) FCC Qualifications.

(i) Seller is qualified under the Communications Act of 1934, as amended, and the rules and regulations of the FCC to assign the Station License to Buyer.

(ii) Seller does not know of any facts relating or pertaining to Seller, its officers or directors which would cause the Commission to deny its consent to the assignment of the Station License to Buyer.

(d) Access to Records. Between the date hereof and the Closing Date, Buyer and representatives of Buyer shall, upon reasonable notice and during regular business hours, be entitled to inspect the properties, titles, physical assets, records and affairs of the Station.

(e) Insolvency. 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 its respective properties or assets are now, or on the Closing Date shall be, pending, or, to the knowledge of Seller, threatened. Seller shall not have made any assignment for the benefit of creditors, or have taken any action with a view to, or which would constitute the basis for, the institution of any such insolvency proceedings.

(f) Compliance with Applicable Laws. The Station License is now and on the Closing Date shall be in conformity with all applicable laws, regulations, rules or orders. The facilities specified in the License used by Station are not the subject of any official complaint or notice of violation of any communications statute or regulation, or environmental statute or regulation.

(g) Seller shall not, without the prior written consent of Buyer:

(i) Enter into any negotiations with any party other than Buyer for the assignment and transfer of the Station License for the Station to be conveyed hereunder, or give an option to any such other party to acquire this asset.

(ii) Seller shall not, by any act or omission of Seller, its officers, directors, employees or agents, surrender, modify or forfeit the Station License or other necessary authorizations from the Commission or cause the Commission to institute any proceedings for revocation, cancellation or modification of the License, or fail to prosecute with due diligence, or participate in the prosecution of, the Assignment Application, including all amendments thereto, as necessitated by FCC Rules and Regulations, or as requested by the Commission Staff; provided however, that Seller shall cooperate with Buyer in connection with any minor modifications to the Station License required to be filed to suit the Buyer's requirements for the Station.

#### **10. BUYER'S COVENANTS, REPRESENTATIONS AND WARRANTIES.**

Buyer covenants, represents and warrants to Seller that:

(a) Power and Authority. Buyer has the legal capacity and authority to enter into this Agreement; and the Agreement constitutes a valid and binding obligation of Buyer in accordance with its terms.

(b) FCC Qualifications. Buyer has no reason to believe that the Commission will not find Buyer fully qualified to become the Licensee of Station.

**11. CONDITIONS PRECEDENT TO PARTIES' OBLIGATIONS.** The obligation of the parties to consummate the transactions contemplated hereby is subject to the fulfillment prior to or at the Closing Date of each of the following conditions:

(a) Commission Approval. That the Commission shall have consented to the Assignment of the License to Buyer without condition or limitation adverse to the Buyer's rights under this Agreement.

(b) Representations and Warranties. That the representations and warranties of each of the parties contained in this Agreement, or in any related agreement attached or delivered pursuant hereto, shall be true and correct in all material respects at and as of the Closing Date as though such representations and warranties were made at and as of such time.

(c) Performance. That each of the parties shall have performed and complied in all material respects with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing Date.

(d) License. On the Closing Date, Seller shall be the holder of the valid Station License. No proceedings shall be pending or threatened which might result in revocation, cancellation, suspension, or modification of the Station License.

## **12. INDEMNIFICATION OF PARTIES.**

(a) Each party hereby agrees to indemnify and hold the other party harmless from and against:

(i) Any and all liabilities and obligations of every kind and description, contingent or otherwise, arising from or related to that period of time before or after the Closing Date during which time the indemnifying party had control over the Station License, including, but not limited to, any and all liabilities and obligations arising or required to be performed during said period under any contract or instrument made or subscribed to by Seller and subsequently assumed by Buyer; provided there shall be no indemnification for expenses incurred in connection with formal or informal objections raised before the FCC regarding grant of Application for assignment contemplated hereunder.

(ii) Any and all damages or deficiency resulting from a misrepresentation, breach of warranty or covenant, or nonfulfillment of any agreement or obligation on the part of either party under this Agreement, or from any misrepresentation in, or omission from any certificate or other instrument furnished to one party by the other party pursuant to this Agreement or in connection with any of the transactions contemplated hereby.

(b) If any claim or liability shall be asserted against one party which would give rise to a claim by or against the other party for indemnification under the provisions of this Paragraph, the first party shall promptly notify the second party in writing of the same, and the second, or indemnifying party shall, at its own expense, defend against any such claim.

**13. SELLER'S PERFORMANCE AT CLOSING.** On the Closing Date at the Closing Place Seller shall execute and deliver or cause to be delivered to Buyer:

(a) An assignment to Buyer of the valid Station License for the Station, together with the call sign for the Station.

(b) The files, records, studies, exhibits and other documents pertaining to the Station License and Station.

(c) A Certification of Seller's warranties under this Agreement.

(d) Such other Assignments, Bills of Sale, or other instruments of transfer, assignment or conveyance as may be required by Buyer to effectuate the assignment, transfer and conveyance to Buyer of all the assets, permits, rights, privileges and immunities of Seller which are to be sold, transferred, conveyed and assigned to Buyer hereunder.

**14. BUYER'S PERFORMANCE AT CLOSING.** On the Closing Date at the Closing Place Buyer shall, upon receipt of the releases, assurances and other documentation provided for by this Agreement deliver or cause to be delivered to Seller:

(a) By cashier's check or wire transfer, funds in the total aggregate amount of Six Thousand and No/100 Dollars (\$6,000.00).

(b) Certification of Buyer's representations and warranties under this Agreement.

**15. NOTICES.** All necessary notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be deemed duly given if mailed by certified mail, return receipt requested and postage prepaid, or delivered via overnight courier service, and addressed as follows:

**IF TO SELLER:**

Andrew Disterhaft  
737 Wright St.  
Oshkosh, WI 54901  
Ph: 920-279-9054

**IF TO BUYER:**

Thomas Boyson  
Hometown Broadcasting, LLC  
PO Box 71  
Berlin, WI 54923  
Ph: 920-361-3551

**16. MISCELLANEOUS.** The parties hereto understand and agree that this Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. The parties shall execute such other documents as may be necessary and desirable to the implementation of this Agreement and consummation of this Agreement. This Agreement may be signed in any number of counterparts with the same effect as if the signature on each such counterpart were upon the same instrument. This Agreement is the only Agreement between the parties hereto and contains all of the terms and conditions agreed upon with respect to the subject matter hereof. Except as otherwise provided herein, no alteration, modification or change of this Agreement shall be valid unless by like instrument. This Agreement is made in, and shall be governed by the laws of, the State of Wisconsin.

[SIGNATURE PAGE, APA]

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

**SELLER:**

*Andrew Disterhaft*

A handwritten signature in black ink, appearing to read "Andrew Disterhaft", written over a horizontal line.

**BUYER:**

*Hometown Broadcasting, LLC*

By:   
Thomas Boyson, President

Appendix A  
FCC Station License



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

Official Mailing Address:

ANDREW DISTERHAFT  
737 WRIGHT ST.  
OSHKOSH WI 54901

Authorizing Official:

*Penelope A. Dade*

Penelope A. Dade  
Supervisory Analyst  
Audio Division  
Media Bureau

Facility Id: 144663

Call Sign: W247AZ

License File Number: BLFT-20080926AAA

Grant Date: **OCT 30 2008**

This license expires 3:00 a.m.  
local time, December 01, 2012.

This license covers permit no.: BPFT-20070613ABZ

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: ANDREW DISTERHAFT

Principal community to be served: WI-BERLIN

Primary Station: WAUH (FM) , Channel 272, WAUTOMA, WI

Via: Direct - off-air

Frequency (MHz): 97.3

Channel: 247

Hours of Operation: Unlimited

Antenna Coordinates: North Latitude: 43 deg 56 min 55 sec  
West Longitude: 88 deg 59 min 09 sec

Transmitter: Type Accepted. See Sections 73.1660, 74.1250 of the Commission's Rules.

Transmitter output power: 0.06 kW

Antenna type: (directional or non-directional): Non-Directional  
Description: DIE DCR-L2

Major lobe directions (degrees true): Not Applicable

	Horizontally Polarized Antenna:	Vertically Polarized Antenna:
Effective radiated power in the Horizontal Plane (kw):	0.055	0.055
Height of radiation center above ground (Meters):	58	58
Height of radiation center above mean sea level (Meters):	299	299

~~Antenna structure registration number: Not Required~~

Overall height of antenna structure above ground: 59 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.

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