

## **ASSET PURCHASE AND ASSIGNMENT AGREEMENT**

This **ASSET PURCHASE AND ASSIGNMENT AGREEMENT** ("Agreement") is made and effective as of March 17, 2001, by and between WPCW of Philadelphia Data Dispatch Partners ("Seller"), PO Box 102, Kingston, NJ 08528, and Contender Dispatch, L.C., a Texas limited liability company (together with its successors and assigns), 5440 NW 33rd Avenue, Ft. Lauderdale, FL 33309 ("Buyer"). Buyer and Seller are also referred to hereinafter each as a "Party" and collectively as the "Parties".

### **WITNESSETH:**

WHEREAS, Seller is the current owner of a non-nationwide 5 channel trunked SMR mobile communications radio station operating in the 220-222 MHZ band identified as FCC Call Sign WPCW 463 (the "System") and holds the license issued by the Federal Communications Commission ("FCC") for the operation of the System (the "License") in Philadelphia, PA (the "Market");

WHEREAS, Seller and Buyer are entering into this Agreement to effect the purchase and sale of such assets free and clear of all liens and encumbrances pursuant to the terms set forth herein, and assignment from Seller to Buyer of the FCC licenses/authorizations and transmitter site lease therefore;

NOW, THEREFORE, in consideration of the covenants and terms contained herein, and for other valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Parties hereto, intending to be legally bound hereby, agree as follows:

### **ASSIGNMENT, PURCHASE AND SALE OF ASSETS**

1.01. Assignment, Purchase and Sale of Assets. Subject to the terms and conditions hereof, on the Closing Date (as hereinafter defined), Seller agrees to and shall assign, transfer, sell, convey and deliver to Buyer all of Seller's right, title and interest in and to all of the assets of Seller and the FCC-issued license and transmitter site lease therefore, which are listed on Schedule 1.01 attached hereto (collectively, the "Purchased Assets"), free and clear of all liens, liabilities, claims, mortgages, obligations, restrictions, or other encumbrances of any kind or nature (collectively, "Liens").

1.02. Excluded Assets. Notwithstanding any other provision of this Agreement, the Purchased Assets shall exclude all other assets of Seller not set forth on Schedule 1.01.

1.03. Assumption of Liabilities. Buyer shall not assume, nor be responsible for, or liable with respect to, any and all debts, liabilities or obligations of Seller, whether arising out of or in connection with the System or the Purchased Assets or otherwise, whether fixed, contingent or otherwise, known or unknown, except as set forth on Schedule 1.03 hereto. Buyer shall assume the liability of the current site lease rental expenses, which are currently \$1724.85 per month. The current lease shall be assigned to Buyer through Seller's efforts with the site owner, which lease shall be on the same terms as currently in effect.

1.04. Purchase Price.

In consideration and payment for the above-listed assets and licenses/authorizations of Seller being assigned to Buyer, Seller shall acquire at closing (as hereinafter defined), Twenty (25) Membership units in Buyer of a total of One Hundred Forty (75) Membership units outstanding. The value of each Membership unit is initially being set at Six Thousand Dollars (\$6,000.00).

1.05. Closing.

The closing ("Closing") of the transaction provided for herein shall take place at the offices of Buyer at 10:00 A.M. local time within fifteen (15) business days after the date on which the grant of FCC consent to the assignment of the License to Buyer becomes a Final Order (as defined in Section 4.01(c) hereof). Closing shall be accomplished through the exchange of closing documentation.

**REPRESENTATIONS AND WARRANTIES**

2.01. Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to Buyer, as of the date of this Agreement (unless otherwise indicated), which representations and warranties shall continue in full force and effect from the date hereof until and through the Closing Date:

(a) Authority. Seller has all requisite power and authority and the legal right to own its properties and to conduct its business as currently conducted, and to execute, deliver and perform this Agreement. Seller's execution, delivery, and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the Seller. This Agreement has been duly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller enforceable in accordance with its terms against Seller except as may be limited by laws affecting the enforcement of creditors' rights or equitable principles generally.

(b) No Restrictions Against Performance. Except as noted on Schedule 2.01(b) hereto, neither the execution, delivery, nor performance of this Agreement by Seller, nor the consummation of the transactions contemplated hereby will, to the best of Seller's knowledge, with or without the giving of notice or the passage of time, or both, violate any provisions of, conflict with, result in a breach of, constitute a default under, or result in the creation or imposition of any Lien or condition under, (i) any federal, state or local law, statute, ordinance, regulation or rule, which is or may be applicable to Seller or the Purchased Assets; (iii) any contract, indenture, instrument, agreement mortgage lease, right or other obligation or restriction to which Seller is a Party or by which Seller or the Purchased Assets is or may be bound; or (iv) any order, judgment, writ, injunction, decree, license, franchise, permit or other authorization of any federal, state or local court, arbitration tribunal or governmental agency by which Seller or the Purchased Assets is or may be bound. The execution and delivery of this Agreement by Seller and the performance by Seller of the transactions contemplated herein will not constitute an act of bankruptcy, preference, insolvency or fraudulent conveyance under any bankruptcy act or other law for the protection of debtors or creditors.

(c) Third-Party and Governmental Consents. Except as set forth on Schedule 2.01(c) hereto, to the best of Seller's knowledge, no approval, consent, waiver, order or authorization of, or registration, qualification, declaration, or filing with, or notice to, any federal, state or local governmental authority or other third Party is required on the part of Seller in connection with the execution of this Agreement or the consummation of the transaction contemplated hereby.

(d) Title. Buyer will have good, valid, marketable, legal and beneficial title to all of the Purchased Assets as of the Closing Date with Seller. To the best of Seller's knowledge, all of the Purchased Assets as of that Closing Date will be free and clear of all Liens of any nature whatsoever, whether absolute, legal, equitable, accrued, contingent or otherwise, including without limitation any rights of first refusal as to any of the Purchased Assets. There will be no outstanding options, warrants, commitments, agreements or any other rights of any character, entitling any person or entity other than Buyer to acquire any interest in all, or any part of, the Purchased Assets.

(e) FCC License. Seller has represented to the Buyer that the License is valid, in good standing, and in full force and effect, was properly constructed and rendered operational as required by FCC Rules, and constitutes (i) all licenses, permits, and authorizations required by the Communications Act of 1934, as amended, and all rules and regulations promulgated thereunder (collectively, the "Communications Act"), for the construction and operation of the System and (ii) all of the licenses, permits, and authorizations issued by the FCC to Seller for or in connection with the System. Seller has no knowledge of any condition imposed by the FCC on the License which is neither set forth on the face thereof as issued by the FCC nor contained in the Communications Act generally, and all FCC Rules and notifications have been complied with, and will continue to be observed until closing hereon. There is no pending or, to the best knowledge of Seller after due inquiry, threatened action by the FCC or any other federal, state or local governmental authority or third Party to suspend, revoke, terminate or challenge the License. Seller shall maintain the Licensed facilities as against any short-spacing proposals by any other applicants/licensees, and shall operate at full-authorized power and facilities.

(f) Orders and Decrees. Neither Seller nor any of the Purchased Assets, to the best of Seller's knowledge, is subject to any judicial or administrative order, ordinance or zoning restriction which would adversely affect, or impose any condition on, the Seller, the System, the Purchased Assets, or the transaction contemplated hereby.

(g) Litigation. There is no judicial or administrative action, suit or proceeding, pending or, to the best knowledge of Seller after due inquiry, threatened against or relating to Seller, the Purchased Assets, the System, or the transaction contemplated hereby, before any federal, state or local court, arbitration tribunal or governmental authority which could, individually or in the aggregate, (i) result in the voluntary or involuntary transfer of any of the Purchased Assets; or (ii) adversely affect Seller, the Purchased Assets, the System, or the transaction contemplated hereby. Seller knows of no reasonable basis for any such action, suit, proceeding or any governmental investigation relating to the same.

(h) Compliance with Laws. To the best of Seller's knowledge, Seller is in compliance in all material respects with all applicable laws, regulations and administrative orders of (i) the United States, including without limitation the Communications Act, (ii) any State, and (iii) any municipality, county, or subdivision, to which Seller, the System, or any of the Purchased Assets is or may be subject.

(i) Insurance. To the extent insurable, Seller has represented to Buyer that the Purchased Assets are insured under policies of fire, casualty, liability and other forms of insurance in such amounts and against such risks and losses as are reasonable and adequate for the Purchased Assets. Seller has represented that such insurance is in an amount not less than the actual replacement value of the insurable Purchased Assets and that such insurance shall be maintained until and including May 6, 2001.

(j) Contracts. Every lease and other contractual agreement listed on Schedule 1.01 hereto will be effective for a period of at least six (6) months following the Closing Date, unless otherwise indicated, and shall continue in effect thereafter until either Party provides at least Thirty (30) days' notice of termination to the other Party. Seller has assured Buyer that it will take all actions necessary to facilitate and effectuate assignment of any transmitter/site lease to buyer effective upon Closing.

(k) Taxes. Buyer has been assured by Seller that it has (i) filed all federal, state, local, foreign and other tax returns and reports of every nature required to be filed in connection with the Purchased Assets and the System, and has paid or will pay all taxes shown to be due on said returns or reports, through the date of closing. Such shall be pro-rated through the date of closing.

(l) Equipment. Seller has assured Buyer that the equipment listed on Schedule 1.01 hereto or subject to the equipment lease(s) listed on Schedule 1.01 hereto, is, to the best of Seller's knowledge, in good working condition, in conformity with the manufacturer's specifications (including the ability to perform the functions for which it was designed), and in compliance with FCC Rules.

(m) No Misstatements or Omissions. None of the information or documents furnished or to be furnished by Seller to Buyer or to any of Buyer's representatives, and no representation or warranty made in this Agreement or in any agreement, document or instrument contemplated hereby, is or will be knowingly false or misleading as to any material fact, or knowingly omits or will omit or fail to state a material fact required to make any of the statements made therein not misleading in any material respect.

(n) Broker's Fees. No agent, broker or other person acting pursuant to the express or implied authority of Seller is or may be entitled to a commission or finder's fee in connection with the transaction contemplated by this Agreement, or is or may be entitled to make any claim against Seller or against Buyer as a result of any action by Seller, for a commission or finder's fee. Seller shall pay any brokerage and/or finder's fee or commission. Seller agrees to indemnify Buyer against any claim for any such commission or finder's fee made by any agent, broker or other person acting pursuant to the express or implied authority of Seller.

(o) Environmental Matters. With respect to any real property listed on Schedule 1.01 hereto or any real property leased pursuant to a lease listed on Schedule 1.01 hereto (any such real property referred to hereinafter as the "Real Property"), Seller has assured Buyer that to the best of Seller's knowledge after reasonable inquiry, neither Seller nor any lessor, owner, or user of the Real Property has used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, or

about the Real Property or transported to or from the Real Property any hazardous material, hazardous substance, pollutant, or contaminant, as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Resource Conservation and Recovery Act of 1976, and the Hazardous Materials Transportation Act, or by the U.S. Environmental Protection Agency or any state environmental agency.

2.02. Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller each of the following:

(a) Authority. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State in which it is organized. Buyer has all requisite power and authority and the legal right to own its properties and to conduct its business as currently conducted, and to execute, deliver and perform this Agreement. Buyer's execution, delivery, and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the Buyer. This Agreement has been duly executed and delivered by Buyer and constitutes the valid and binding obligation of Buyer enforceable in accordance with its terms against Buyer except as may be limited by laws affecting the enforcement of creditors' rights or equitable principles generally.

(b) No Restrictions Against Performance. Neither the execution, delivery, or performance of this Agreement by Buyer, nor the consummation of the transaction contemplated hereby will, with or without the giving of notice or the passage of time, or both, violate any provisions of, conflict with, result in a breach of, constitute a default under, or result in the creation or imposition of any Lien or condition under, (i) Buyer's organizational documents; (ii) any federal, state or local law, statute, ordinance, regulation or rule, which is applicable to Buyer; (iii) any contract, indenture, instrument, agreement, mortgage, lease, right or other obligation or restriction to which Buyer is a Party or by which Buyer is bound; or (iv) any order, judgment, writ, injunction, decree, license, franchise, permit or other authorization of any federal, state or local court, arbitration tribunal or governmental agency by which Buyer is bound. The execution and delivery of this Agreement by Buyer and the performance by Buyer of the transactions contemplated herein will not constitute an act of bankruptcy, preference, insolvency or fraudulent conveyance under any bankruptcy act or other law for the protection of debtors or creditors.

(c) Broker's Fees. No agent, broker or other person acting pursuant to the express or implied authority of Buyer is or may be entitled to a commission or finder's fee in connection with the transactions contemplated by this Agreement, or is or may be entitled to make any claim against Seller or against Buyer as a result of any actions by Buyer, for a commission or finder's fee. Buyer agrees to indemnify Seller against any claim for any such commission or finder's fee made by any agent, broker or other person acting pursuant to the express or implied authority of Buyer.

## COVENANTS

3.01. Seller's Covenants. Seller has represented and covenanted to and agreed with Seller that:

(a) Conduct of Business. From the date hereof until Closing, Seller shall:

(i) maintain and preserve the Purchased Assets and conduct the business of the System in a reasonable and prudent manner, in the ordinary and usual course, and consistent with industry practice, including but not limited to maintaining the books and records of the System in such manner to the extent such books and records are listed on Schedule 1.01;

(ii) secure assignments to Buyer of all agreements identified on Schedule 1.01, including all required consents to such assignments;

(iii) not modify any of the leases or other agreements listed on Schedule 1.01 hereto, except as approved by Buyer, or breach the terms of any such lease or other agreement in any material respect;

(iv) not enter into any lease or other agreement with respect to the Purchased Assets other than the leases and agreements already entered into, except as approved by Buyer;

(v) not create, assume, or incur any indebtedness with respect to the System or the Purchased Assets, except as approved by Buyer;

(vi) not sell, transfer, dispose of, or create or suffer any Lien on any of the Purchased Assets, except as approved by Buyer;

(vii) not take any other action which would have an adverse effect on the System or any of the Purchased Assets, including without limitation the value or condition thereof;

(viii) to the extent any employment laws apply to this transaction, cooperate in good faith with Buyer in complying with all such laws.

(b) Access and Information. To the extent Buyer reasonably deems necessary for purposes of this Agreement and the transaction contemplated hereby, Seller shall permit Buyer, its counsel, accountants and other representatives to have full access throughout the period prior to Closing to the System, specifically including without limitation, the equipment, properties, and books and records of Seller relating to the Purchased Assets or the System, and will cause to be furnished to Buyer and its representatives during such period all information concerning the Purchased Assets and the System as Buyer or its representatives may reasonably request, including without limitation all equipment manuals and maintenance records associated with the Purchased Assets.

(c) No Shop. Seller has agreed with Buyer that, from the date hereof until Closing or termination of this Agreement pursuant to Article VII hereof, neither Seller nor any of its agents will take any action, directly or indirectly, to solicit indications of interest in, or offers for, the sale of the System or any of the Purchased Assets from anyone other than Buyer. Seller agrees promptly to inform Buyer of any offers or solicitations to purchase any of the Purchase Assets, including the terms thereof, made by any third Party.

(d) Confidentiality. Whether or not the transaction contemplated hereby is consummated, Seller agrees to use its best efforts to keep the existence and terms of this Agreement confidential, including but not limited to the nature and amount of the consideration, and any and all information with respect to the Buyer; provided, however, that each Party may disclose such information to its lawyers, accountants, and other representatives. Notwithstanding the foregoing, Seller may disclose this Agreement or any part hereof to any third Party if required to do so by law or contractual obligation; however, in such case, Seller shall, prior to such disclosure, (a) notify Buyer as to the identity of the Party to whom Seller intends to make the disclosure, and (b) redact all references to Buyer in this Agreement.

(e) Further Assurances. Seller agrees, without further consideration, to execute and deliver such other instruments of transfer and take such other action as Buyer may reasonably request in order to put Buyer in possession of, and to vest in Buyer, good, valid, and unencumbered title to the Purchased Assets in accordance with this Agreement and to consummate the transactions contemplated by this Agreement.

3.02. Covenants of Both Parties. The Parties hereto covenant and agree that:

(a) Assignment Application. Promptly following the execution of this Agreement, and no later than thirty (30) days thereafter, the Parties hereto agree to prepare, execute and file with the FCC their respective portions of an application (the "Assignment Application") seeking the consent of the FCC to the assignment of the License to Buyer. Both Parties shall fully cooperate to assure routine, expedited processing and grant of the assignment application, including prompt response to any FCC-requested information.

(b) Disclosure to Parties. If either of the Parties should become aware, prior to Closing, that any of their respective representations, warranties or covenants are inaccurate or incapable of being performed, such Party shall promptly give written notice of such inaccuracy or incapability to the other Party; provided, however, that nothing contained in this Section 3.02(b) shall relieve the Party bound by such representation, warranty or covenant from complying with such representation, warranty, or covenant.

(c) No Hindrance. Neither Party will take any action that may reasonably be expected to hinder or prevent the consummation of the transactions contemplated herein.

## **CLOSING CONDITIONS**

4.01. Conditions to Obligations of Buyer. This Agreement and the obligations of Buyer to perform hereunder shall be subject to the satisfaction by Seller, or waiver in writing by Buyer, of the following conditions at or prior to Closing:

(a) Representations, Warranties and Obligations. All representations and warranties of Seller contained in this Agreement shall, except as expressly provided herein, be true and correct as of the date hereof and until and through the Closing Date. Seller shall have performed and complied with all of its covenants and obligations under this Agreement.

(b) Third-Party Consents. Seller shall have obtained and delivered to Buyer all necessary consents and approvals of third Parties or governmental authorities to permit Buyer to acquire the Purchased Assets without the addition of any condition which would have a material adverse effect on any of the Purchased Assets.

(c) FCC Consent. The FCC shall have granted its consent to the assignment of the License to Buyer from Seller without the addition of any condition which would have a material adverse effect on the License, and such grant shall have become a Final Order. For purposes of this Agreement, "Final Order" means an action by the FCC granting its consent and approval to the assignment of the License, with respect to which no action, request for stay, petition for rehearing, reconsideration or appeal is pending, and as to which the time for filing any request, petition or appeal has expired and with respect to which the time for agency action taken on its own motion has expired; or in the event of the filing of such request, petition or appeal, an action which shall have been reaffirmed or upheld and with respect to which the time for seeking further administrative or judicial review shall have expired without the filing of any such action for further review.

(d) No Material Adverse Change. There shall not have been any material adverse change in any of the Purchased Assets.

(e) Deliveries. Seller shall have delivered to Buyer each of the documents specified in Section 5.01 hereof.

(f) Liens and Indebtedness. All Liens and indebtedness with respect to the Purchased Assets shall have been released to Buyer's satisfaction.

4.02. Conditions to Obligations of Seller. This Agreement and the obligations of Seller to perform hereunder shall be subject to the satisfaction by Buyer, or waiver in writing by Seller, of the following conditions at or prior to Closing:

(a) Representations and Warranties. All representations and warranties of Buyer contained in this Agreement shall, except as expressly provided herein, be true and correct as of the date hereof, and until and through the Closing Date. Buyer shall have performed and complied with all of its



covenants and obligations under this Agreement.

(b) Deliveries. Buyer shall have delivered to Seller each of the documents specified in Section 5.02 hereof.

## **DELIVERIES**

The following deliveries shall be made by the respective Parties at Closing:

5.01. Seller's Deliveries. Seller shall deliver to Buyer each of the following items at or prior to Closing:

(a) one or more bills of sale conveying to Buyer all of the Purchased Assets to be acquired hereunder, free and clear of any and all Liens of any nature;

(b) evidence of the assignment of all leases and other agreements identified on Schedule 1.01 hereto;

(c) copies of all equipment manuals and material maintenance records associated with the Purchased Assets; and

(d) such other documents, assignments, bills of sale, instruments of conveyance, and certificates of officers as reasonably may be required by Buyer to consummate this Agreement and the transaction contemplated herein.

5.02. Buyer's Delivery. Buyer shall deliver to Seller at Closing the Purchase Price as follows:

(a) Buyer shall deliver to Seller the full number of Membership units.

## **INDEMNIFICATION**

6.01. Indemnification by Seller. Seller has agreed with Buyer to defend, indemnify and hold Buyer, any subsidiary or affiliate thereof, and its respective successors, officers, directors, controlling persons and members (the "Indemnified Buyer Group") harmless from and against any and all losses, liabilities, damages, costs or expenses (including reasonable attorneys' fees, penalties and interest) payable to or for the benefit of, or asserted by, any Party, resulting from, arising out of, or incurred as a result of (a) the falsity of any representation made by Buyer herein or in accordance herewith, (b) the breach of any warranty or covenant made by Seller herein or in accordance herewith, or (c) any and all claims, liabilities and obligations of any nature relating to the business and operation of the System prior to the Closing Date; provided that such claim, liability or obligation arose on or after the organizational meeting of Seller on June 14, 1997.

6.02. Indemnification by Buyer. Buyer agrees to defend, indemnify and hold Seller harmless

from and against any and all losses, liability, damages, costs, or expenses incurred by Seller (including reasonable attorneys' fees, penalties and interest), payable to or for the benefit of, or asserted by, any Party, resulting from, arising out of, or incurred as a result of (a) the falsity of any representation made by Buyer herein or in accordance herewith, (b) the breach of any warranty or covenant made by Buyer herein or in accordance herewith, or (c) any and all claims, liabilities and obligations of any nature relating to the business and operation of the System before the Closing Date.

6.03. Survival of Covenants and Warranties. The representations, warranties, covenants and agreements made by Seller, on the one hand, Seller, on the one hand, and Buyer, on the other hand, shall survive the Closing and shall be fully enforceable at law or in equity against such other Party and its successors and assigns by the other Party and its successors and assigns for a period of One (1) year after the Closing Date. Any investigation at any time made by or on behalf of (or any disclosure to) any Party hereto shall not diminish in any respect whatsoever its right to rely on the representations and warranties of the other Party hereto.

6.04. Notice of Claims. Buyer and Seller each agree to give prompt written notice to the other of any claim against the Party giving notice which might give rise to a claim by it against the other Party hereto based upon the indemnity provisions contained herein, stating the nature and basis of the claim and the actual or estimated amount thereof. In the event that any action, suit or proceeding is brought against Seller or any member of the Indemnified Buyer Group with respect to which any Party hereto may have liability under the indemnification provisions contained herein, the indemnifying Party shall have the right, at its sole cost and expense, to defend such action in the name or on behalf of the indemnified Party and, in connection with any such action, suit or proceeding, the Parties hereto agree to render to each other such assistance as may reasonably be required in order to ensure the proper and adequate defense of any such action, suit or proceeding. Neither Party hereto shall make any settlement of any claim which might give rise to liability of the other Party under the indemnification provisions contained herein without the written consent of such other Party, which consent such other Party covenants shall not be unreasonably withheld.

## **TERMINATION**

7.01. Termination Not Due to Breach. This Agreement may be terminated (a) at any time by mutual written consent of Seller and Buyer; and (b) after one year from the date of this Agreement, by Buyer at its sole option, if Closing between Seller and Buyer has not occurred by that date and if failure to close is not the result of a breach of the Agreement by Seller. If this Agreement is terminated pursuant to this Section 7.01, (i) neither of the Parties hereto, nor any of their agents or successors in interest, shall have any liability or further obligation to the other Party or any of its agents or successors in interest pursuant to this Agreement; and (ii) all FCC filings, applications and other submissions relating to the assignment of the License shall (to the extent practicable) be withdrawn.

7.02. Termination Due to Breach by Buyer. In the event that Buyer fails to comply with any material term or obligation or breaches any representation or warranty contained in this Agreement in any material respect and does not cure such failure within twenty (20) days of receiving written notice from Seller thereof, and if Seller has not formally waived such, then Seller may at its option, by written

notice to Buyer, terminate this Agreement and Buyer, if at the time of its breach holds the FCC license, Buyer agrees to comply with any legal process and/or court order to relinquish the license.

7.03. Termination Due to Breach by Seller. In the event that Seller fails to comply with any material term or obligation or breaches any representation or warranty contained in this Agreement in any material respect and does not cure such failure within twenty (20) days of receiving written notice thereof, and if Buyer has not formally waived such, then Buyer may at its option by written notice to Seller terminate this Agreement.

## **GENERAL PROVISIONS**

8.01. Expenses. Except as otherwise expressly provided herein, each Party to this Agreement shall pay its own expenses (including without limitation the fees and expenses of its agents, representatives, counsel, and accountants), incidental to the negotiation, drafting, and performance of this Agreement including, without limitation, the preparation of the applicable sections of the FCC assignment application. In the event any Party shall bring an action in connection with the performance, breach or interpretation of this Agreement, the prevailing Party in any such action shall be entitled to recover from the losing Party all reasonable costs and expenses of such action, including attorneys' fees. Buyer shall pay all applicable sales and transfer taxes, if any.

8.02. Bulk Transfer Laws. Buyer hereby waives compliance by Seller with the laws of any jurisdiction relating to bulk transfers which may be applicable in connection with the transfer of the Purchased Assets to Buyer; provided that, Seller agrees to indemnify, defend and hold Buyer harmless from and against any and all costs, liabilities or claims asserted against or incurred by Buyer as a result of noncompliance with such bulk transfer laws.

8.03. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Seller, Buyer and their respective successors and permitted assigns, but shall not be assignable or delegable in whole or in part by Buyer or Seller without the prior written consent of the other Party, such consent not to be unreasonably withheld; provided however, that Buyer shall have the right to assign or delegate its rights and obligations hereunder to an affiliate or subsidiary without the consent of Seller. Upon the execution of any permissible assignment of the obligations of Buyer hereunder, Seller agrees that the Assignee may assume obligations of Buyer under this Agreement but Buyer shall remain liable to Seller under this Agreement. For purposes of this Agreement, the term "affiliate", shall mean any entity which has 5% or more common ownership with Buyer.

8.04. Waiver. No provision of this Agreement shall be deemed waived by course of conduct, including the act of Closing, unless such waiver is made in writing signed by both Parties stating that it is intended specifically to modify this Agreement, nor shall any course of conduct operate or be construed as a waiver of any subsequent breach of this Agreement, whether of a similar or dissimilar nature.

8.05. Entire Agreement. This Agreement (together with the Schedules hereto) supersedes any other agreement, whether written or oral, that may have been made or entered into by Buyer and Seller (or by any director, officer, agent, or other representative of such Parties) relating to the matters

contemplated hereby. This Agreement (together with the Schedules hereto) and the Management Agreement entered into contemporaneously herewith constitute the entire agreement by and among the Parties and there are no other agreements or commitments except as expressly set forth herein.

8.06. Further Assurances. Each of the Parties hereto agrees to promptly execute all documents and instruments and to take or to cause to be taken all actions which are necessary or appropriate, as well as fully cooperate with each other, in order to complete the transaction contemplated by this Agreement.

8.07. Risk of Loss. Each of the Parties hereto hereby acknowledges and agrees that the risk of loss, damage or destruction of the Purchased Assets shall be upon the Seller until Closing, and upon Closing shall pass to Buyer. In the event of such loss, damage or destruction prior to Closing, Seller shall promptly restore, replace or repair the damaged property to its previous condition at its own and sole cost, and Seller shall have the right to use all insurance proceeds to effect such restoration, replacement or repair and to retain all excess proceeds.

8.08. Notices. All notices, demands, requests, and other communications hereunder shall be in writing and shall be deemed to have been duly given and shall be effective upon receipt if delivered by hand, or sent by certified or registered United States mail, postage prepaid and return receipt requested, or by prepaid overnight express service. Notices shall be sent to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice; provided that such notice shall be effective only upon receipt thereof):

- (a) If to Seller:  
WPCW of Philadelphia Data Dispatch Partners  
Mr. Marcus Duff  
P.O. Box 102  
Kingston, NJ 08528
- (b) If to Buyer:  
Contender Dispatch, L.C.  
c/o 5440 NW 33rd Ave.  
Ft. Lauderdale, FL 33309  
ATTN: Wayne Keil

8.09. Specific Performance. The Parties agree and acknowledge that, due to the unique nature of the subject matter of this Agreement, Seller would be irreparably damaged in the event of a breach of this Agreement, which damage could not be adequately compensated except by specific performance of this Agreement.

8.10. Amendments, Supplements, Etc. This Agreement may be amended or modified only by a written instrument executed by both Parties that states specifically that it is intended to amend or modify this Agreement.

8.11. Severability. If, at any time, the FCC, or any other applicable federal, state, or local governmental authority, or any court or arbitration tribunal having jurisdiction determines that any provision of this Agreement is void, invalid or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, and, in lieu of each such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and still be legal, valid and enforceable and still preserve each Party's benefits and equities hereunder.

8.12. Applicable Law. This Agreement and the legal relations between the Parties hereto shall be governed by and construed in accordance with the substantive laws of the State of Florida, without giving effect to the principles of conflict of laws thereof. Venue for any cause of action brought by or between Buyer or Seller relating to this Agreement, shall be in the State of Florida, in Broward County.

8.13. Titles and Headings. Titles and headings to sections hereof are inserted for convenience of reference only, and are not intended to be a part of, or to affect the meaning or interpretation of, this Agreement.

8.14. Transition. Buyer and Seller shall cooperate and take such action as may be reasonably requested by the other in order to effect the transaction contemplated herein.

8.15. Execution in Counterparts. 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 agreement.

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

**SELLER:**

**WPCW of Philadelphia Data Dispatch Partners**

By: \_\_\_\_\_  
Name: Marcus Duff  
Title: Managing Partner  
Date: \_\_\_\_\_

**BUYER:**

**Contender Dispatch, L.C.**

By: \_\_\_\_\_  
Name: Wayne Keil  
Title: Founding Member

## **Schedule 1.01**

### **PURCHASED ASSETS**

The assets, contractual rights, obligations, and authorizations to be conveyed, transferred, assigned, and delivered by Seller to Buyer at Closing (the "Purchased Assets") are the following:.

1. FCC license to operate a 220-222 MHz mobile radio station in Philadelphia, Pennsylvania under call sign WPCW 463;

2. Equipment, as listed below (attach additional sheets if necessary):

One ESP Master Oscillator  
Four ESP Repeaters  
One Equipment Cabinet  
One Power Supply and Battery Backup  
One 5-Channel Multi-Coupler Site Management Package (Onsite)  
Two Antennae with Cables  
Equipment Cables and Connectors  
One Smartlink Controller  
One Digital Telephone Network Router

3. Agreements, as listed below (attach additional sheets if necessary):

<u>Subject Matter</u>	<u>Parties</u>	<u>Date</u>
Management Agreement	Police Emergency Radio Services	July 15, 1997
Tower site lease	Broadcast Services, Inc.	March 1, 1996

4. Other assets, as listed below, including intangible business assets (attach additional sheets if necessary):

### **Schedule 1.03**

#### **LIABILITIES AND OBLIGATIONS**

Liabilities of Seller to be assumed by Buyer at Closing (other than the contractual obligations contained in the Agreements listed on Schedule 1.01 hereto) are the following:

1. Costs of preparation of partnership tax returns for year 2000 and beyond
2. Tower Lease
3. Liability & Equipment Insurance
- 4.
- 5.
- 6.



**Schedule 2.01(b)**

**RESTRICTIONS AGAINST PERFORMANCE**

1. FCC Approval & Regulations
2. Police Emergency Radio Services Management Agreement (if applicable)
3. Majority approval by WPCW Partners of this agreement
- 4.
- 5.

**Schedule 2.01 (c)**

**THIRD PARTY CONSENTS**

1. FCC consent to the assignment of the License;

2. other consents:

(a) Assignment of transmitter site lease--

\_\_\_\_\_

(b)

Police Emergency Radio Services Management Agreement termination, if applicable

\_\_\_\_\_

(c)