Exhibit 12.28.1  
  
THIS WARRANT AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXERCISE THEREOF HAVE  
NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR ANY OTHER SECURITIES  
LAWS. SUCH SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED, PLEDGED OR  
HYPOTHECATED IN THE ABSENCE OF (1) AN EFFECTIVE REGISTRATION STATEMENT COVERING  
SUCH SECURITIES UNDER THE SECURITIES ACT OF 1933 AND ANY OTHER APPLICABLE  
SECURITIES LAWS, OR (2) AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE  
COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED.  
  
 COMMON STOCK PURCHASE WARRANT AGREEMENT  
  
 XXXXXXX RADIO CORP., a Delaware corporation (the "Company"),  
hereby certifies that, for value received, LADENBURG XXXXXXXX & CO. INC. or its  
registered transferees, successors or assigns (each, a "holder"), is the  
registered holder of warrants (the "Warrants") to subscribe for and purchase  
50,000 shares of Common Stock (as adjusted pursuant to Section 3 hereof, the  
"Shares") of the Company, at a purchase price per share equal to the Warrant  
Exercise Price (as defined below), subject to the provisions and upon the terms  
and conditions hereinafter set forth. As used herein, (a) the term "Common  
Stock" shall mean the Company's presently authorized Common Stock, par value  
$.01 per share, and any stock into or for which such Common Stock may hereafter  
be converted or exchanged, (b) the term "Grant Date" shall mean as of October 7,  
2003, and (c) the term "Warrant" shall be deemed to include any warrant issued  
upon transfer or partial exercise of this Warrant, unless the context clearly  
requires otherwise.  
  
 1. EXERCISE OF WARRANTS. (a) The Warrants may be exercised by  
the Holder, in whole at any time or in part from time to time, at any time up to  
October 7, 2008 (the "Expiration Date") at 5:00 p.m. New York City time, when  
such Warrants shall expire, at an exercise price of $5.00 per share (the  
"Warrant Exercise Price"). The Holder shall deliver to the Company written  
notice of the Holder's intent to exercise the Warrants at Nine Xxxxx Xxxx,  
Xxxxxxxxxx, Xxx Xxxxxx 00000-0000, or at such other address as the Company shall  
designate in writing to the Holder, together with this Warrant Agreement and a  
certified or official bank check payable to the order of the Company for the  
aggregate purchase price of the Shares so purchased. Upon exercise of the  
Warrants as aforesaid, the Company shall as promptly as practicable, and in any  
event within 10 days thereafter, execute and deliver to the Holder a certificate  
or certificates in the name of the Holder for the total number of whole Shares  
for which the Warrants are being exercised. If the Warrants shall be exercised  
with respect to less than all of the Shares, the Holder shall be entitled to  
receive a similar warrant of like tenor and date covering the number of Shares  
in respect of which the Warrants were not exercised. The Warrants covered by  
this Warrant Agreement shall lapse and be null and void if not exercised by the  
Holder on or before 5:00 p.m., New York City time, on the Expiration Date.  
  
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 (b) In lieu of exercising this Warrant in the manner set forth  
in paragraph 1(a) above, this Warrant may be exercised prior to the Expiration  
Date by surrender of the Warrant without payment of any other consideration,  
commission or remuneration, together with the cashless exercise subscription  
form at the end hereof, duly executed. The number of Shares to be issued in  
exchange for the Warrant shall be the product of (x) the excess of the market  
price of the Common Stock on the date of surrender of the Warrant and the  
exercise subscription form over the Warrant Exercise Price and (y) the number of  
shares subject to issuance upon exercise of the Warrant, divided by the market  
price of the Common Stock on such date. Upon such exercise and surrender of this  
Warrant, the Company will (i) issue a certificate or certificates in the name of  
the Holder for the number of whole shares of the Common Stock to which the  
Holder shall be entitled, rounded down to the nearest whole number of Shares so  
that no fractional Shares shall be issued, and (ii) deliver the other securities  
and properties receivable upon the exercise of this Warrant, pursuant to the  
provisions of this Warrant. If the Warrants shall be exercised with respect to  
less than all of the Shares, the Holder shall be entitled to receive a similar  
warrant of like tenor and date covering the number of Shares in respect of which  
the Warrants were not exercised.  
  
 (c) The market price of Common Stock shall mean the price of a  
share of Common Stock on the relevant date, determined on the basis of the last  
reported sale price of the Common Stock as reported on the American Stock  
Exchange ("AMEX"), or, if there is no such reported sale on the day in question,  
on the basis of the average of the closing bid and asked quotations as so  
reported, or, if the Common Stock is not listed on AMEX, the last reported sale  
price of the Common Stock on such other national securities exchange or market  
upon which the Common Stock is listed, or, if the Common Stock is not listed on  
any national securities exchange, on the basis of the average of the closing bid  
and asked quotations on the day in question in the over-the-counter market as  
reported by the National Association of Securities Dealers' Automated Quotations  
System, or, if not so quoted, as reported by National Quotation Bureau,  
Incorporated or a similar organization.  
  
 2. COVENANTS OF THE COMPANY. The Company covenants and agrees  
that all the Shares which may be issued upon the exercise of the Warrants  
represented by this Warrant Agreement will, upon issuance, be fully paid and  
nonassessable and free from all taxes, liens, and charges with respect to the  
issue thereof (other than taxes in respect of any transfer occurring  
contemporaneously with such issue). The Company further covenants and agrees  
that during the period within which the Warrants represented by this Warrant  
Agreement may be exercised, the Company will at all times have authorized and  
reserved a sufficient number of Shares to provide for the exercise of the  
Warrants represented by this Warrant Agreement.  
  
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 3. ADJUSTMENTS OF WARRANT EXERCISE PRICE AND NUMBER OF SHARES.  
  
 (a) If the Company shall, without the payment of new value, at  
any time declare a stock dividend on its outstanding shares of Common Stock or  
effectuate a stock split or reverse stock split, by subdivision or consolidation  
in any manner, regarding the number of shares of the Common Stock then  
outstanding into a different number of shares of the Common Stock, with or  
without par value, then thereafter the number of Shares which the holder shall  
have the right to purchase (calculated immediately prior to such change), shall  
be increased or decreased, as the case may be, in direct proportion to the  
increase or decrease in the number of shares of the Common Stock of the Company  
issued and outstanding by reason of such dividend or change, and the Warrant  
Exercise Price of the Shares after such change shall in the event of an increase  
in the number of shares of the Common Stock be proportionately reduced, and in  
the event of a decrease in the number of shares of the Common Stock be  
proportionately increased.  
  
 (b) No adjustment in the Warrant Exercise Price shall be  
required unless such adjustment would require an increase or decrease of at  
least $0.05 per share of Common Stock; provided, however, that any adjustments  
which by reason of this sub-section (b) are not required to be made shall be  
carried forward and taken into account in any subsequent adjustment; and  
provided further, however, that adjustments shall be required and made in  
accordance with the provisions of this Section 3 (other than this sub-section  
(b)) not later than such time as may be required in order to preserve the  
tax-free nature of a distribution to the Holder of this Warrant or Common Stock.  
All calculations under this Section 3 shall be made to the nearest cent or to  
the nearest 1/100th of a share, as the case may be. Anything in this Section 3  
to the contrary notwithstanding, the Company shall be entitled to make such  
reductions in the Warrant Exercise Price, in addition to those required by this  
Section 3, as it in its discretion shall deem to be advisable in order that any  
stock dividend, subdivision of shares or distribution of rights to purchase  
stock or securities convertible or exchangeable for stock hereafter made by the  
Company to its shareholders shall not be taxable.  
  
 (c) Notwithstanding anything herein to the contrary, for  
purposes of this Section 3, the Holder agrees that no adjustment shall be made  
to the Warrant Exercise Price or the number of Shares issuable upon the exercise  
of this Warrant Agreement upon issuance of Common Stock (or any other  
securities) of the Company for any purposes other than as set forth in Sections  
3(a) and 4 herein.  
  
 4. SURVIVAL IN THE EVENT OF MERGERS AND REORGANIZATIONS. In  
the event of the reclassification or change in the outstanding Common Stock  
(other than a change in par value, or from par value to no par value, or from no  
par value to par value, or as a result of a subdivision, combination or stock  
dividend), or in the event of a sale of all or substantially all of the assets  
of the Company, or in the event of any consolidation of the Company with, or  
merger of the Company into, another corporation, the Company, or such successor  
corporation, as the case may be, shall provide that, the Holder shall thereafter  
be entitled to purchase the kind and amount of shares of stock and other  
  
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securities and property receivable upon such reclassification, change,  
consolidation, sale, or merger by a holder of the number of Shares which this  
Warrant Agreement entitled the holder thereof to purchase immediately prior to  
such reclassification, change, consolidation, sale, or merger. Such corporation,  
which thereafter shall be deemed to be the Company for purposes of this Warrant  
Agreement, shall provide for adjustments, if any, which shall be as nearly  
equivalent as may be practicable to the adjustments provided for in this Warrant  
Agreement.  
  
 5. SALE OF ASSETS, DISSOLUTION. Notwithstanding paragraph 4  
hereof, in the event of a sale of all or substantially all the assets of the  
Company, or in the event of any distribution of all or substantially all of its  
assets in dissolution or liquidation, or in the event of any other distribution  
or dividend (other than cash dividends) or other event described in Section 4,  
the Company shall mail notice thereof by registered mail to the Holder and shall  
make no distribution to the stockholders of the Company until the expiration of  
10 days from the date of mailing of the aforesaid notice; provided, however,  
that in any such event, if the Holder shall not exercise the Warrants within 10  
days from the date of mailing such notice, all rights herein granted and not so  
exercised within such 10 day period shall thereafter become null and void. The  
Company shall not, however, be prevented from consummating any such merger,  
consolidation, sale or distribution without awaiting the expiration of such 10  
day period, it being the intent and purpose hereof to enable the Holder, upon  
exercise of the Warrants, to participate in the distribution of the  
consideration to be received by the Company upon any such merger, consolidation,  
or sale or in the distribution of assets upon any dissolution or liquidation or  
in the event of any other distribution or dividend (as provided above).  
  
 6. NO FRACTIONAL SHARES. The number of Shares subject to  
issuance upon the complete exercise of the Warrants shall be rounded down to the  
nearest whole number of Shares so that no fractional Shares shall be issued upon  
the complete exercise of the Warrants. The Holder shall not be entitled to  
receive any compensation or property for such fractional Share to which it may  
have been entitled to in the absence of this provision.  
  
 7. NOTICES. If there shall be any adjustment in accordance  
with this Warrant Agreement, or if securities or property other than Shares of  
the Company shall become purchasable in lieu of Shares upon exercise of the  
Warrants, the Company shall forthwith cause written notice thereof to be sent by  
registered mail, postage prepaid, to the Holder at its address shown on the  
books of the Company, which notice shall be accompanied by a certificate of  
either independent public accountants of recognized standing or the Chairman,  
President, or any Vice President of the Company setting forth in reasonable  
detail the basis for the Holder becoming entitled to purchase such Shares and  
the number of Shares which may be purchased and the exercise price thereof, or  
the facts requiring any such adjustment, or the kind and amount of any such  
securities or property so purchasable upon the exercise of the Warrants, as the  
case may be.  
  
 8. TAXES. The issue of any stock or other certificate upon the  
exercise of the Warrant shall be made without charge to the Holder for any  
stamp, duty, excise, or  
  
  
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similar tax (but not including the Holder's income or similar taxes) in respect  
of the issue of such certificate. The Company shall not, however, be required to  
pay any tax which may be payable in respect of any transfer involved in the  
issue and delivery of any certificate in a name other than that of the Holder,  
as the registered holder of this Warrant Agreement, and the Company shall not be  
required to issue or deliver any such certificate unless and until the person or  
persons requesting the issue thereof shall have paid to the Company the amount  
of such tax or shall have established to the satisfaction of the Company that  
such tax has been paid.  
  
 9. LIMITED TRANSFERABILITY. This Warrant is not transferable  
or assignable by the Holder except (i) to Ladenburg Xxxxxxxx & Co. Inc., any  
successor firm or corporation of Ladenburg Xxxxxxxx & Co. Inc., (ii) to any of  
the officers of Ladenburg Xxxxxxxx & Co. Inc. or of any such successor firm, or  
(iii) in the case of an individual, pursuant to such individual's last will and  
testament or the laws of descent and distribution and is so transferable only  
upon the books of the Company which it shall cause to be maintained for the  
purpose. The Company may treat the registered holder of this Warrant as he or it  
appears on the Company's books at any time as the Holder for all purposes. The  
Company shall permit any holder of a Warrant or his duly authorized attorney,  
upon written request during ordinary business hours, to inspect and copy or make  
extracts from its books showing the registered holders of Warrants. All Warrants  
will be dated the same date as this Warrant.  
  
 10. WARRANT HOLDER NOT STOCKHOLDER. This Warrant Agreement  
does not confer upon the Holder any right to vote or to consent or to receive  
notice as a stockholder of the Company, as such in respect of any matters  
whatsoever, or any other rights or liabilities as a stockholder, prior to the  
exercise hereof as provided herein.  
  
 11. INVESTMENT REPRESENTATIONS. The Holder, by acceptance  
hereof, and with reference to the Warrants and the Shares issuable upon exercise  
of the Warrants, represents and warrants that:  
  
 (a) The Holder is acquiring such securities for investment  
purposes only, for its own account, and not with a view toward resale or other  
distribution thereof, and has no present intention of selling or otherwise  
disposing of such securities.  
  
 (b) The Holder is aware that the offer and sale of the  
securities have not been registered under the Securities Act of 1933, as amended  
("Securities Act"), or any state securities law, that upon exercise of the  
Warrants, the Shares must be held indefinitely unless they are subsequently  
registered or an exemption from such registration is available and that the  
Company is under no obligation to register the offer and sale of the Shares  
under the Securities Act or any applicable state securities laws, except as  
otherwise set forth in Section 13 hereof.  
  
 (c) The Holder acknowledges that the Warrants may not be made  
subject to a security interest, pledged, hypothecated, sold, or otherwise  
transferred in the absence of an effective registration statement for such  
Warrants under the Securities Act  
  
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and such applicable state securities laws or there is an applicable exemption  
therefrom. The Holder further acknowledges that, unless the offer and sale of  
the Shares issuable upon exercise of the Warrants have been registered under the  
Securities Act, the Shares issued upon the exercise of the Warrants shall be  
restricted in the same manner and to the same extent as the Warrants and the  
certificates representing such Shares shall bear the following legend:  
  
 "THESE SHARES OF COMMON STOCK HAVE NOT BEEN  
 REGISTERED UNDER THE SECURITIES ACT OF 1933  
 OR ANY OTHER SECURITIES LAWS. SUCH  
 SECURITIES MAY NOT BE OFFERED FOR SALE,  
 SOLD, TRANSFERRED, PLEDGED OR HYPOTHECATED  
 IN THE ABSENCE OF (1) AN EFFECTIVE  
 REGISTRATION STATEMENT COVERING SUCH  
 SECURITIES UNDER THE SECURITIES ACT OF 1933  
 AND ANY OTHER APPLICABLE SECURITIES LAWS, OR  
 (2) AN OPINION OF COUNSEL REASONABLY  
 SATISFACTORY TO THE COMPANY THAT SUCH  
 REGISTRATION IS NOT REQUIRED."  
  
 In making the above representations and warranties, the Holder  
intends that the Company rely thereon and understands that, as the result of  
such reliance, such securities are not being registered under the Securities Act  
or any applicable state securities laws in reliance upon the applicability of  
certain exemptions relating to transactions not involving a public offering.  
  
 12. LOST WARRANTS. In case this Warrant Agreement shall be  
mutilated, lost, stolen, or destroyed, the Company will issue a new Warrant  
Agreement of like date, tenor, denomination and terms and conditions, and  
deliver the same in exchange and substitution for and upon surrender and  
cancellation of the mutilated Warrant Agreement, or in lieu of any Warrant  
Agreement lost, stolen, or destroyed, upon receipt of evidence satisfactory to  
the Company of the loss, theft, or destruction of such Warrant Agreement, and  
upon receipt of indemnity satisfactory to the Company.  
  
 13. REGISTRATION RIGHTS.  
  
 (a) The Company agrees that if at any time hereafter the  
Company proposes to file with the Securities and Exchange Commission (the  
"Commission") a registration statement ("Registration Statement") under the  
Securities Act on a form suitable for registering the Shares issuable upon  
exercise of the Warrants (other than on Form X-0, X-0, or comparable  
registration statement; other than any registration statement which has been  
declared effective by the Commission prior to the date hereof or has been filed  
with the Commission prior to the date hereof but has not yet been declared  
effective), it will give written notice to such effect to the Holder, at least  
30 days prior to such filing, and, at the written request of the Holder, made  
within 10 days after the receipt of such notice, will include therein at the  
Company's cost and expense (except for the fees and expenses of counsel to the  
Holder and underwriting discounts and commissions attributable to the Shares of  
Warrant Common Stock (as defined below)  
  
  
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included therein) such number of Shares of Warrant Common Stock held by the  
Holder as it shall request. If the registration is an underwritten primary  
registration on behalf of the Company, and the managing underwriter(s) advise  
the Company in writing that in their good faith opinion, based upon market  
conditions, the number of securities requested to be included in such  
registration exceeds the number which can be sold in such offering, the Company  
will include in such registration (i) first, the securities the Company proposes  
to sell, (ii) second, the Warrant Common Stock (as hereinafter defined)  
requested to be included in such registration and any other securities requested  
to be included in such registration pursuant to contractual arrangements between  
Company and such other security holders ("Registration Rights Holders"), pro  
rata among the holders of the Warrant Common Stock and the Registration Rights  
Holders on the basis of the number of securities requested to be included in  
such registration by such holders and the Registration Rights Holders, and (iii)  
third, other securities requested to be included in such registration. The  
Company, at its own expense, will use its commercial reasonable efforts to file  
and seek the effectiveness of such Registration Statement with the Commission  
and will cause the prospectus included in such Registration Statement to meet  
the requirements of the Securities Act necessary to effect the sale of the  
Shares included at the request of the Holder and keep such Registration  
Statement effective for a period of 180 days thereafter. The term "Warrant  
Common Stock" shall mean the Shares issuable and issued pursuant to this Warrant  
Agreement and all other Warrants originally granted to Ladenburg and/or its  
employees or consultants as contemplated herein and pursuant to all Warrants  
issued upon transfer, division, or combination of, or in substitution for, any  
thereof.  
  
 (b) The Company promptly shall notify the Holder, as a  
participating holder of Warrant Common Stock, of the occurrence of any event as  
a result of which any prospectus included in a registration statement filed  
pursuant to this Section 13 includes any misstatement of a material fact or  
omission of any material fact required to be stated therein or necessary to make  
the statements made therein, in light of the circumstances under which they were  
made, not misleading.  
  
 (c) The Company's obligations under this Section 13 with  
respect to the Holder, as the holder of Warrant Common Stock, are expressly  
conditioned upon the Holder promptly, completely, and accurately furnishing to  
the Company in writing such information concerning the Holder and the terms of  
the Holder's proposed offering as the Company shall request for inclusion in the  
Registration Statement.  
  
 14. INDEMNIFICATION.  
  
 (a) The Company agrees to indemnify and hold harmless each selling  
holder of shares of Warrant Common Stock and each person who controls any such  
selling holder within the meaning of Section 15 of the Securities Act, and each  
and all of them, from and against any and all losses, claims, damages,  
liabilities or actions, joint or several, to which any selling holder of shares  
of Warrant Common Stock or they or any of them may become subject under the  
Securities Act or otherwise and to reimburse the persons indemnified above for  
any legal or other expenses (including the reasonable cost of any  
  
  
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investigation and preparation) incurred by them in connection with any  
litigation or threatened litigation, whether or not resulting in any liability,  
but only insofar as such losses, claims, damages, liabilities or actions arise  
out of, or are based upon, any untrue statement or alleged untrue statement of a  
material fact contained in any registration statement pursuant to which shares  
of Warrant Common Stock were registered under the Securities Act (hereinafter  
called a "Registration Statement"), any preliminary prospectus, the final  
prospectus or any amendment or supplement thereto (or in any application or  
document filed in connection therewith) or document executed by the Company  
based upon written information furnished by or on behalf of the Company filed in  
any jurisdiction in order to register or qualify the shares of Warrant Common  
Stock under the securities laws thereof or the omission or alleged omission to  
state therein a material fact required to be stated therein or necessary to make  
the statements therein, in the light of the circumstances under which they were  
made, not misleading; provided, however, that the indemnity agreement contained  
in this sub-section (a) shall not extend to any selling holder of shares of  
Warrant Common Stock in respect of any such losses, claims, damages, liabilities  
or actions arising out of, or based upon, any such untrue statement or alleged  
untrue statement, or any such omission or alleged omission, if such statement or  
omission was based upon and made in conformity with information furnished in  
writing to the Company by a selling holder of shares of Warrant Common Stock  
specifically for use in connection with the preparation of such Registration  
Statement, any final prospectus, any preliminary prospectus or any such  
amendment or supplement thereto. The Company agrees to pay any reasonable legal  
and other expenses for which it is liable under this sub-section (a) from time  
to time (but not more frequently than monthly) within 30 days after its receipt  
of a xxxx therefor.  
  
 (b) Each selling holder of shares of Warrant Common Stock, severally  
and not jointly, will indemnify and hold harmless the Company, its directors,  
its officers who shall have signed the Registration Statement and each person,  
if any, who controls the Company within the meaning of Section 15 of the  
Securities Act to the same extent as the foregoing indemnity from the Company,  
but in each case to the extent, and only to the extent, that any statement in or  
omission from or alleged omission from such Registration Statement, any final  
prospectus, any preliminary prospectus or any amendment or supplement thereto  
was made in reliance upon information furnished in writing to the Company by  
such selling holder specifically for use in connection with the preparation of  
the Registration Statement, any final prospectus or the preliminary prospectus  
or any such amendment or supplement thereto; provided, however, that the  
obligation of any holder of shares of Warrant Common Stock to indemnify the  
Company under the provisions of this sub-section (b) shall be limited to the  
product of the number of shares of Warrant Common Stock being sold by the  
selling holder and the market price of the Common Stock on the date of the sale  
to the public of these shares of Warrant Common Stock. Each selling holder of  
shares of Warrant Common Stock agrees to pay any legal and other expenses for  
which it is liable under this sub-section (b) from time to time (but not more  
frequently than monthly) within 30 days after receipt of a xxxx therefor.  
  
 (c) If any action is brought against a person entitled to  
indemnification pursuant to the foregoing Sections 14(a) or (b) (an "indemnified  
party") in respect of which  
  
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indemnity may be sought against a person granting indemnification (an  
"indemnifying party") pursuant to such Sections, such indemnified party shall  
promptly notify such indemnifying party in writing of the commencement thereof;  
but the omission so to notify the indemnifying party of any such action shall  
not release the indemnifying party from any liability it may have to such  
indemnified party otherwise than on account of the indemnity agreement contained  
in sub-sections (a) or (b) of this Section 14, except to the extent that such  
failure or delay in providing notice of an indemnifiable claim shall have  
materially prejudiced the defense of such indemnifiable claim. In case any such  
action is brought against an indemnified party and it notifies an indemnifying  
party of the commencement thereof, the indemnifying party against which a claim  
is to be made will be entitled to participate therein at its own expense and, to  
the extent that it may wish, to assume at its own expense the defense thereof,  
with counsel reasonably satisfactory to such indemnified party; provided,  
however, that (i) if the defendants in any such action include both the  
indemnified party and the indemnifying party and the indemnified party shall  
have reasonably concluded based upon advice of counsel that there may be legal  
defenses available to it and/or other indemnified parties which are different  
from or additional to those available to the indemnifying party, the indemnified  
party shall have the right to select separate counsel to assume such legal  
defenses and otherwise to participate in the defense of such action on behalf of  
such indemnified party or parties, and (ii) in any event, the indemnified party  
shall be entitled to have counsel chosen by such indemnified party participate  
in, but not conduct, the defense at the expense of the indemnifying party. Upon  
receipt of notice from the indemnifying party to such indemnified party of its  
election so to assume the defense of such action and approval by the indemnified  
party of counsel, the indemnifying party will not be liable to such indemnified  
party under this Section 14 for any legal or other expenses subsequently  
incurred by such indemnified party in connection with the defense thereof unless  
(i) the indemnified party shall have employed such counsel in connection with  
the assumption of legal defenses in accordance with proviso (i) to the next  
preceding sentence (it being understood, however, that the indemnifying party  
shall not be liable for the expenses of more than one separate counsel), (ii)  
the indemnifying party shall not have employed counsel reasonably satisfactory  
to the indemnified party to represent the indemnified party within a reasonable  
time after notice of commencement of the action, or (iii) the indemnifying party  
has authorized the employment of counsel for the indemnified party at the  
expense of the indemnifying party. An indemnifying party shall not be liable for  
any settlement of any action or proceeding effected without its written consent.  
  
 (d) In order to provide for just and equitable contribution in  
circumstances in which the indemnity agreement provided for this Section 14 is  
unavailable in accordance with its terms, the Company and the selling holder of  
shares of Warrant Common Stock shall contribute to the aggregate losses, claims,  
damages and liabilities, of the nature contemplated by said indemnity agreement,  
incurred by the Company and the selling holder of shares of Warrant Common  
Stock, in such proportions as is appropriate to reflect the relative benefits  
received by the Company and the selling holder of shares of Warrant Common Stock  
from any offering of the shares of Warrant Common Stock; provided, however, that  
if such allocation is not permitted by applicable law or if the indemnified  
party failed to give the notice required under sub-section (c) of this Section  
  
  
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14, then the relative fault of the Company and the selling holder of shares of  
Warrant Common Stock in connection with the statements or omissions which  
resulted in such losses, claims, damages and liabilities and other relevant  
equitable considerations will be considered together with such relative  
benefits.  
  
 (e) The respective indemnity and contribution agreements by the Company  
and the selling holder of shares of Warrant Common Stock in sub-sections (a),  
(b), (c) and (d) of this Section 14 shall remain operative and in full force and  
effect regardless of (i) any investigation made by any selling holder of shares  
of Warrant Common Stock or by or on behalf of any person who controls such  
selling holder or by the Company or any controlling person of the Company or any  
director or any officer of the company, (ii) payment for any of the shares of  
Warrant Common Stock, or (iii) any termination of this Agreement, and shall  
survive the delivery of the shares of Warrant Common Stock, and any successor of  
the Company, or of any selling holder of shares of Warrant Common Stock, or of  
any person who controls the Company or of any selling holder of shares of  
Warrant Common Stock, as the case may be, shall be entitled to the benefit of  
such respective indemnity and contribution agreements. The respective indemnity  
and contribution agreements by the Company and the selling holder of shares of  
Warrant Common Stock contained in sub-sections (a), (b), (c) and (d) of this  
Section 14 shall be in addition to any liability which the Company and the  
selling holder of shares of Warrant Common Stock may otherwise have.  
  
 15. APPLICABLE LAW. This Warrant Agreement shall be governed by, and  
construed in accordance with, the laws of the State of Delaware, without regard  
to the conflict of laws provisions thereof.  
  
 IN WITNESS WHEREOF, the parties hereto have executed this Warrant  
Agreement effective as of the day and year first above written.  
  
 XXXXXXX RADIO CORP.  
  
 By:  
 -----------------------------------  
 (Name) (Title)  
  
  
  
 LADENBURG XXXXXXXX & CO., INC.  
  
 By:  
 ---------------------------  
 (Name) (Title)  
  
  
 10  
  
  
 NOTICE OF EXERCISE  
  
To: Xxxxxxx Radio Corp.  
  
1. The undersigned hereby elects to purchase \_\_\_\_\_ shares of Common Stock of  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ pursuant to the terms of the attached Warrant, and  
tenders herewith payment of the purchase price of such shares in full.  
  
2. Please issue a certificate or certificates representing said shares in the  
name of the undersigned or in such other name or names as are specified below:  
  
  
-------------------------------  
 (Name)  
  
  
-------------------------------  
 (Address)  
  
3. The undersigned represents that the aforesaid shares are being acquired for  
the account of the undersigned for investment and not with a view to, or for  
resale in connection with, the distribution thereof and that the undersigned has  
no present intention of distributing or reselling such shares.  
  
------------------------------- (Signature)  
------------------------ (Date)  
  
4. Please issue a new Warrant of equivalent form and tenor for the unexercised  
portion of the attached Warrant in the name of the undersigned or in such other  
name as is specified below:  
  
-------------------------------  
  
Date:  
 -------------------------  
  
(Warrantholder)  
 -------------------------  
Name: (Print)  
 ---------------------------  
 Its:  
 -----  
  
 11  
  
 SUBSCRIPTION FOR CASHLESS WARRANT SUBSCRIPTION  
  
  
 The undersigned, \_\_\_\_\_\_\_\_\_\_\_\_\_, pursuant to the provisions of the  
foregoing Warrant, hereby agrees to subscribe to that number of shares of the  
Common Stock as are issuable in accordance with the formula set forth in  
paragraph 1(b) of the Warrant, and makes payment therefor in full by surrender  
and delivery of this Warrant.  
  
  
Dated: Signature:  
  
 Address:  
  
  
  
 12  
  
  
 ASSIGNMENT  
  
 FOR VALUE RECEIVED, \_\_\_\_\_\_\_\_\_\_\_\_\_ hereby sells, assigns and transfers  
unto the foregoing Warrant and all rights evidenced thereby, and does  
irrevocably constitute and appoint \_\_\_\_\_\_\_\_\_\_\_\_\_, attorney, to transfer said  
Warrant on the books of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  
  
  
Dated: Signature:  
  
 Address:  
  
 13  
  
  
 PARTIAL ASSIGNMENT  
  
  
 FOR VALUE RECEIVED, \_\_\_\_\_\_\_\_\_\_\_\_\_ hereby assigns and transfers unto  
\_\_\_\_\_\_\_\_\_\_\_ the right to purchase \_\_\_\_\_\_\_\_\_\_\_\_ shares of the Common Stock of  
\_\_\_\_\_\_\_\_\_\_\_\_ by the foregoing Warrant, and a proportionate part of said Warrant  
and the rights evidenced hereby, and does irrevocably constitute and appoint  
\_\_\_\_\_\_\_\_\_\_\_\_\_, attorney, to transfer that part of said Warrant on the books of  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  
  
  
  
Dated: Signature:  
  
 Address:  
  
  
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