

RADIO STATION PURCHASE AGREEMENT

This RADIO STATION PURCHASE AGREEMENT is made and entered by HIGH PLAINS RADIO NETWORK, LLC, a Texas limited liability company ("Buyer"), and Southwest Arkansas Media, LLC, an Arkansas limited liability company ("Seller").

RECITALS

WHEREAS, Seller is the sole licensee, proprietor and operator of the commercial radio stations identified as:

KZYP(AM) Licensed to Malvern, Arkansas
K264AU, FM Translator Licensed to rebroadcast KZYP(AM),
KVRC(AM) licensed to Arkadelphia, Arkansas
KDEL-FM licensed to Arkadelphia, Arkansas
KWPS-FM licensed to Caddo Valley, Arkansas
KYXK(FM) licensed to Gurdon, Arkansas
K229CX, FM Translator Licensed to rebroadcast KAFN(AM), Benton, Arkansas
and the broadcast auxiliary stations licensed in association with these stations (collectively, the "Stations"; and

WHEREAS, Seller is the owner or lessee of all tangible and intangible personal property used in connection with the operation of the Stations (the "Radio Assets"); and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, substantially all of the Station Assets, all subject to the terms and conditions set forth herein for a purchase price of Five Hundred Fifty Thousand Dollars (\$550,000); and

NOW, THEREFORE, in consideration of their respective agreements and covenants herein, the receipt and sufficiency of which is hereby acknowledged, Buyer and Seller agree:

1. Purchase and Sale of Radio Assets.

On the terms and conditions of this Agreement, at Closing Seller shall sell, assign, transfer, convey and deliver to Buyer the entire right, title and interest of Seller in, to and under the Radio Assets.

- (A) The Radio Assets shall include all personal property, rights, contracts, liabilities and obligations utilized in the 'Ordinary Course of Business' (*i.e.*, the ordinary course of the Stations' business consistent with past practices). The Radio Assets shall specifically:
- (1) include the real property, personal property, towers, equipment buildings, broadcast equipment, broadcast rights and broadcast contracts;
 - (2) include all governmental licenses which include any franchises, approval, certificates, authorizations, permits, site leases, rights and applications used in the Ordinary Course of Business of the Radio Stations.

2. Pre-Closing Covenants.

The parties agree to comply with the following covenants until Closing.

- (A) Buyer and Seller shall jointly prepare and Seller shall file the Federal Communications Commission ("FCC") Application in accordance with Section 5. Buyer shall be responsible for preparation of any needed multiple ownership showing for the FCC Application.
- (B) Buyer, with Seller's reasonable assistance, shall obtain all approvals, consents or authorizations (excluding the FCC Application) necessary to assign all Licenses (other than the FCC radio-frequency licenses) to Buyer.
- (C) Without Buyer's written consent, Seller shall not surrender or voluntarily modify any License, shall not permit any License to expire, shall not take any action (or fail to take any action) that could result in suspension, revocation or limitation of rights under any License; and shall prosecute with due diligence any pending applications concerning any License.
- (D) Without Buyer's written consent, Seller shall not cause any Radio Station to take any action outside the

Ordinary Course of Business.

- (E) Without Buyer's written consent, Seller shall not negotiate or agree to transfer ("Transfer", including sales, assignments, conveyances, pledges, encumbrances, liens or any other transfer) any Radio Assets.
- (F) Without Buyer's written consent, Seller shall not permit the Transfer of any of Seller's equity interests.
- (G) Without the other party's approval, a party shall not disclose any confidential information about the other party except as necessary for the FCC Application, obtaining the License transfer authorizations and obtaining the Transfer Consents.
- (A) Upon execution of this Agreement, Buyer shall within two business days place the sum of twenty-seven thousand five hundred US dollars (\$27,500) in escrow with the law firm of Schwartz, Woods & Miller, acting as Escrow Agent, such escrow funds to be disbursed according to the terms of this Agreement and the Escrow Agreement, attached hereto as Schedule A. In the event Buyer does not close due to its material breach of this Agreement, the escrowed funds shall be paid to Seller as liquidated damages.

Buyer and Seller hereby acknowledge that Seller shall control and operate the Station(s) between the Contract Date and Closing.

3. Preparation of Schedules.

The parties agree that the Schedules to this Agreement (the "Schedules") shall be prepared in draft form by Seller within ten days after the Contract Date:

- (A) Buyer shall have 10 days to propose any modifications to the Schedules.
- (B) Buyer and Seller shall then negotiate in good faith to jointly approve all Schedules.
- (C) Seller shall inform Buyer about any subsequent material changes in the Radio Assets and the corresponding amendments to the Schedules.
- (D) Seller shall deliver the most recent updated Schedules at the time of Closing.

4. Obtaining 3rd Party Consents.

- (A) Until all Transfer Consents are obtained, Seller shall take all necessary action to enable Buyer to obtain the benefits of the Radio Assets.
- (B) If any Radio Assets are leased by Seller then Seller shall consent to Buyer's use of such leased Radio Assets. To the extent permitted by such leases, Seller shall assign its rights under those leases to Buyer.

5. Seller's Representations and Warranties.

Seller represents and warrants to Buyer as follows:

- (A) Entity Status. Seller is a limited liability company, duly organized, validly existing, and in good standing under the laws of Arkansas. Seller has the requisite power to carry on the business of the Stations as it is now being conducted and to own and operate the Stations and to enter into and complete the transactions contemplated by this Agreement (the "Subject Transactions").
- (B) Authority. All company actions necessary to be taken by or on the part of Seller in connection with the Subject Transactions have been duly and validly taken, and this Agreement has been duly and validly authorized, executed, and delivered by Seller and constitutes the legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with its terms.
- (C) No Conflict. The execution, delivery, and performance of this Agreement and the consummation of the Subject Transactions will not (a) conflict with or violate the Membership Agreement of Seller; (b) conflict with or violate or result in any breach of or any default under, result in any termination or modification of, or cause any acceleration of any obligation under, any contract to which Seller is a party or by which it is bound, or result in the creation of any Lien upon any of the Station Assets; or (c) violate any judgment, decree, order, statute, law, rule, or regulation applicable to Seller, the Station or any of the Station Assets.

- (D) Contracts. Material contracts related to the Station or Station operations are listed in Schedule 1(B).
- (E) No Breach. Seller is not in material violation or breach of any of the terms, conditions, or provisions of any court order, judgment, arbitration award, or decree relating to or affecting the Station or the Station Assets to which Seller is a party or by which it is bound.
- (F) Taxes. Seller has, or by the Closing Date will have, paid and discharged all taxes, assessments, excises, and other levies relating to the Station Assets, which if due and not paid, would materially interfere with Buyer's enjoyment and use of the Station Assets after Closing or for which Buyer could subsequently become liable or which could result in liens on the Station Assets, except for such taxes, assessments, and other levies as will not be due until after the Closing Date which will be prorated in accordance with this Agreement.
- (G) Licenses. Seller is the holder of the Licenses, which are the only licenses, authorizations, or approvals required under the Communications Act of 1934, as amended (the "Communications Act"), or the rules, regulations, and policies of the FCC for, and used in the operation of, the Station. The Licenses are in full force and effect in all material respects and have not been revoked, suspended, canceled, rescinded, or terminated and have not expired. There is not pending, or to Seller's knowledge, threatened, any action by or before the FCC to revoke, suspend, cancel, rescind, or modify the Licenses (other than proceedings to amend FCC rules of general applicability), and there is not now pending or, to Seller's knowledge, threatened, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or notice of forfeiture or complaint against Seller or the Stations. The Stations are operating in all material respects in compliance with the Licenses, the Communications Act, and the rules, regulations, and policies of the FCC, except that KDEL-FM, KVRC, KZYP, and K264AU are temporarily off the air under special temporary authority from the FCC and Seller represents that they will be returned to licensed operation as required and in any event before Closing. All reports and filings required to be filed with the FCC by Seller with respect to the Stations have been filed and are true and correct in all material respects.
- (H) Approvals and Consents. The execution, delivery, and performance by Seller of this Agreement and the consummation by it of the Subject Transactions will not require any consent, permit, license, or approval of, or filing with or notice to, any person, entity, or governmental or regulatory authority under any provision of law applicable to Seller or any Contract, except for the Application for FCC Consent and the consent of any party identified in the schedules hereto.
- (I) Station Assets. The Station Assets constitute all of the assets necessary to conduct the present operations of the Stations. Schedule 1(A) contains a description of all items of Tangible Personal Property used or held for use in the operation of the Stations. Seller has good, valid, and marketable title to all of the Station Assets, free and clear of all Liens. Each item of Tangible Personal Property that is required for regular operation of the Stations is in good operating condition and repair, reasonable wear and tear excepted, is functioning in the manner and for the purposes for which it was intended and has been maintained in accordance with industry standards and regulations of the FCC.
- (J) Real Property.
- (a) Schedule 5(A) contains descriptions of all real property owned by Seller and used or held for use in connection with the business and operations of the Station (the "Real Property").
- (b) Seller leases, as a tenant, the premises described on Schedule 5(B) and those leases are the only Real Property leases to which Seller is a party (either as lessor or lessee) and that is required in the conduct of the business of the Station. Seller has delivered to Buyer true and complete copies of those leases.
- (c) With respect to the leases of Real Property listed in Schedule 5(B) the leases are in full force and effect and are valid, binding, and enforceable in accordance with their terms; (ii) no notice of default or termination has been given or received, no event of default has occurred, and no condition exists and no event has occurred that, with the giving of notice, the lapse of time, or the happening of any further event would become a default or permit early termination thereunder; and (iii) the validity or enforceability thereof will in no way be affected by the sale of the Station Assets as contemplated herein. Except as set forth

in Schedule 5(B), no third-party consent or approval is required for the assignment of the lease to Buyer, or for the consummation of the Subject Transactions.

(d) Seller shall deliver to Buyer a commitment for an ALTA title insurance policy with respect to the tower Real Estate (the "Title"). Seller shall pay all costs and expenses of obtaining the Title and a seller's title policy, including without limitation, all title insurance premiums associated therewith. The Title shall in all respects be acceptable to Buyer.

(K) Environment. Seller has materially complied with all federal, state, and local environmental laws, rules, and regulations in effect on the date hereof applicable to the Stations and their operations, including but not limited to the FCC's guidelines regarding RF radiation.

(L) Compliance with Law. The Seller is in compliance in all material respects with all requirements of federal, state, and local law and all requirements of all governmental bodies or agencies having jurisdiction over it, including compliance with the Communications Act and all rules and regulations issued thereunder, the operation of the Station, the use of the Station Assets, and the Real Property. Seller has, or will have upon receiving notice, properly filed all reports and other documents required to be filed with any government or subdivision or agency thereof which, if not properly filed, would jeopardize Seller's right to operate the Stations. Seller has not received any notice, not heretofore complied with, from any federal, state, or municipal authority or any insurance or inspection body that any of its property, facilities, equipment, or business procedures or practices fails to comply in any material respect with any applicable law, ordinance, regulation, building or zoning law, or requirement of any public authority or body.

(M) Litigation. There are no suits, arbitrations, administrative charges, or other legal proceedings, claims or governmental investigations pending against, or to Seller's knowledge threatened against, the Stations or Seller relating to the Stations nor, to the knowledge of Seller, is there any basis for any such suit, arbitration, administrative charge, or other legal proceeding, claim, or governmental investigation. Seller has not been operating under or subject to, or in default with respect to, any judgment, order, writ, injunction, or decree of any court or federal, state, municipal, or other governmental department, commission, board, agency, or instrumentality.

(N) Taxes. Seller has filed all federal, state, and local tax returns and state franchise tax returns that are required to have been filed, and has paid in full when due all taxes, interest, penalties, assessments, and deficiencies that have been assessed or levied against the Stations or any of the Station Assets based upon such returns.

6. Seller's Representations and Warranties.

Buyer represents and warrants to Seller as follows:

(A) Status. Buyer is a limited liability company that is duly organized, validly existing, and in good standing under the laws of the State of Texas. Buyer has the requisite power to enter into and complete the Subject Transactions.

(B) Authority. All actions necessary to be taken by or on the part of Buyer in connection with the Subject Transactions have been duly and validly taken, and this Agreement has been duly and validly authorized, executed, and delivered by Buyer and constitutes the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

(C) No Conflict. Neither the execution and delivery and performance by Buyer of this Agreement nor the consummation by Buyer of the Subject Transactions will: (a) conflict with or violate the organizational documents of Buyer; or (b) violate any judgment, decree, order, statute, rule, or regulation applicable to Buyer.

(D) No Brokers. There is no broker or finder or other person entitled to a commission or brokerage fee or payment in connection with this Agreement or the Subject Transactions as a result of any agreement of, or action taken by, Buyer.

(E) Qualifications. Buyer is legally and financially qualified under the Communications Act and the existing rules, regulations, and policies of the FCC to hold the Licenses.

7. FCC Approval.

Buyer and Seller acknowledge that the FCC must consent to the assignment of the Radio Stations' radio-frequency licenses from Seller to Buyer.

- (A) Buyer and Seller shall jointly prepare the application to obtain the FCC's consent to the assignment of the Radio Stations' radio frequency licenses from Seller to Buyer ("FCC Application"). The parties shall cooperate in the preparation of that application.
- (B) Seller shall file the FCC Application with the FCC within thirty days following execution of this Agreement.
- (C) Buyer and Seller shall diligently prosecute the FCC Applications. Each of the parties shall provide any assistance or cooperation requested by the other for obtaining approval of the FCC Application.

8. Closing. After receiving approval of the FCC Applications as well as all License transfer authorizations and Transfer Consents that Buyer reasonably deems necessary for Closing, Buyer shall give Seller a Closing Notice accompanied by the most recent Schedules.

- (A) The Closing shall occur on the last business day of the month in which the conditions set forth have been satisfied or waived (the "Closing Date"). The closing of the purchase and sale provided for in this Agreement (herein referred to as the "Closing") shall take place in Little Rock, Arkansas or at a place mutually agreed to in writing by the parties.
- (B) At the Closing, Seller shall transfer to Buyer all of Seller's right, title and interest of Seller in, to and under the Radio Assets, free and clear of all liens. Seller shall execute and deliver:
 - (1) all documents reasonably requested by Buyer to evidence transfer of the Radio Assets;
 - (2) a certificate affirming Seller's representations and warranties herein, *however*, such certificate shall be appropriately limited to reflect Buyer's operation of the Stations as a time broker between the Contract Date and the Closing; and
 - (3) all other documents reasonably requested by Buyer that are customary for the sale of a business.
- (C) At the Closing, Buyer shall deliver to Seller:
 - (1) all documents requested by Seller to evidence Buyer's assumption of any contract, liabilities and obligations related to the Radio Assets;
 - (2) a certificate affirming Buyer's representations and warranties herein;
 - (3) all documents reasonably requested by Seller that are customary for the sale of a business; and
 - (4) funds in the amount of Five Hundred Twenty-Two Thousand Five Hundred Dollars (\$522,500) plus or minus any final adjustments as detailed in subsection D, to be paid by wire transfer of immediately available federal funds to an account to be designated by Seller.
- (D) At the Closing, the parties shall jointly instruct the Escrow Agent to deliver the funds in the Escrow Account to Seller to complete the purchase price of Five Hundred Fifty Thousand Dollars \$550,000 and the delivery of those funds shall be required to consummate the transaction.
- (E) At the Closing, the parties shall make appropriate proration for all taxes, fees, expenses and other costs relating to the Radio Assets and customary for the sale of a business. The parties shall pay their prorated share of such amounts and will equally share the cost of the FCC filing fee.

Each party will execute such additional documents and take such other actions requested by the other party in order to effectuate the transfer of the Radio Assets from Seller to Buyer.

6. Force Majeure. Except as herein provided to the contrary, neither Buyer nor Seller shall have any rights against the other Party hereto for failure or delay in the performance of a required obligation if such failure or delay is caused by an act of God; inevitable accident; fire; lockout; flood; tornado; hurricane; strike or other labor dispute;

riot or civil commotion; earthquake; war; act of government or governmental instrumentality (whether federal, state or local); failure of performance by a common carrier; failure in whole or in part of technical facilities; or other cause (financial inability excepted) beyond such Party's reasonable control. Prompt written notice within thirty (30) days of such event shall be provided.

7. Fees and Costs. Each party shall be solely responsible for its own attorney's fees, broker's fees and costs in connection with the matter herein.

8. Assignment. Buyer may assign its rights under this Agreement to another qualified entity, so long as the timing of such assignment does not materially delay FCC consideration of the FCC Application.

9. Notices. All notices, requests, consents, approvals, demands, notifications and other communications provided for hereunder (collectively "Notices") shall be in writing. All Notices shall be deemed given or made one business day after sending them by nationally recognized overnight carrier addressed to the other Party at the address following its signatures with proof of delivery required. A Party may change its address for notices by a notice complying with this Section.

10. Construction and Interpretation. Terms used in this Agreement should be interpreted according to their fair meaning consistent with this Section.

- (A) If an ambiguity or question of intent or interpretation arises then no party shall bear any presumption or burden of proof due to authorship of any provision herein because the parties jointly negotiated and drafted this Agreement.
- (B) The obligations of Buyer and Seller under this Agreement are subject to all applicable federal, state and local laws, rules and regulations (including the Communications Act, as the same may be amended from time to time, and the rules and regulations of the FCC promulgated thereunder).
- (C) Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural and the words of the plural may be construed as denoting the singular as is appropriate.
- (D) The terms "include" and "including" mean 'including without limitation'.
- (E) The term "any" includes 'any', 'if any', 'all', 'any or all' or 'any and all', as the context requires.
- (F) The term "laws" include constitutions, statutes, rules, regulations, codes, injunctions, judgments, orders, decrees, rulings, restrictions and charges.
 - (1) Unless expressly limited in a particular provision, the term "laws" includes federal, state and local laws.
 - (2) A reference to a specific statute also refers to regulations relating to that statute.
 - (3) A reference to a specific law refers to that law as revised or amended at the time that law is being applied.
- (G) The term "person" includes any individual, partnership, corporation, association, joint stock company, limited liability company, limited partnership, trust, retirement entity, government or other entity, whether foreign or domestic.
- (H) If a date for a party's performance is a day on which national banks are not open for business in Arkansas then such performance shall occur on the next weekday when national banks are open for business in Arkansas.
- (I) References to a 'Section', 'subsection', 'Article', 'Exhibit', 'Appendix' or 'Schedule' shall constitute cross-references within this Agreement unless the reference also expressly cites another document.
- (J) The provisions of this Agreement are severable and separate, so if any particular provision is ruled to be illegal, invalid or unenforceable, the remaining provisions shall be severed therefrom and shall remain in full force and effect, unless such severance would result in a substantial change in the balance of economic benefits between the parties, in which case the parties shall in good faith negotiate appropriate additional changes.

- (K) This Agreement shall be construed neither to place the Parties in the relationship of partners or joint venturers nor to constitute any Party the agent of any other Party. Except as specifically provided for herein, neither Party shall have the power to obligate or bind the other Party in any manner whatsoever
- (L) This Agreement shall be binding upon and inure to the benefits of Buyer, Seller, their respective successors and permitted assigns but shall not confer any rights or remedies upon any other person except as expressly granted herein.
- (M) A waiver of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or other breach.
- (N) The rights and remedies of a party herein provided are cumulative and are not exclusive of any right or remedies which it may otherwise have.
- (O) No provision of this Agreement shall be altered, amended, revoked or waived, except by an instrument in writing signed by all parties.
- (P) This Agreement may be executed in counterparts. Both counterparts collectively shall constitute a single instrument, while each such counterpart shall be considered an original.
- (Q) A facsimile signature on any document executed in connection with the Company shall constitute an original signature.

The Section titles are stated only for convenience and shall not control or affect the interpretation or construction of any provision of this Agreement.

11. Entire Agreement. This Agreement sets forth the entire understanding and agreement of Buyer and Seller concerning the purchase and sale of the Stations. This Agreement supersedes all prior understandings, agreements or representations by or between the parties, whether written or oral. The parties hereby release & discharge all liabilities with respect to prior discussions, negotiations and commitments.

12. Broker Fee. Buyer and Seller represent that there are no finders, consultants or brokers involved in this transaction other than Mahlman Radio Brokerage, and that Seller is responsible for the brokerage fee at closing.

13. Accounts Receivable. Seller hereby agrees to sell and Buyer agrees to purchase the collectible Accounts Receivable of the Stations due to Seller as of the Closing. Seller represents that all of said Accounts Receivable will be just, due and payable. Seller will provide Buyer with a list of said Final and Current Accounts Receivable at the Closing. Buyer shall purchase the Accounts Receivables for sixty percent (60%) of their face value for all accounts that are aged to less than ninety days. All aged accounts over ninety-one days, will also be turned over to the Buyer, but at no cost to the Buyer. This amount shall be in addition to the purchase price for the Station Assets.

14. Remedies. Notwithstanding anything to the contrary herein contained, it is agreed that the rights and privileges granted to Buyer in this Agreement are special and unique and that the Buyer shall be entitled to seek specific performance, in a court of competent jurisdiction, and if such relief is granted, the Buyer shall be entitled to recover from the Seller all costs and expenses (including reasonable attorneys' fees) incurred in securing such relief, said remedy to be Buyer's sole and exclusive remedy.

15. Termination. This Agreement may be terminated at any time prior to the Closing Date, as follows:

(A) By the mutual consent of Seller and Buyer; or

(B) If the Transfer Consents have not been granted within one year of the Contract Date.

(C) In the event of any termination, this Agreement shall thereupon become void and of no effect, provided, however, that nothing in this Section shall be deemed to release any party from liability for any breach by such party of the terms and provisions of this Agreement or impair the right of the Buyer to compel specific performance of Seller of its obligations under this Agreement.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas without regard to the choice of law rules utilized in that jurisdiction, and the obligations of the parties hereto are subject to all federal, state, or municipal laws or regulations now or hereafter in force and to the regulations of the FCC and all other governmental bodies or authorities presently or hereafter duly constituted and any legal action with respect hereto shall be brought in state or federal court in Arkansas.

SIGNATURE PAGE FOLLOWS:

IN WITNESS WHEREOF, after reading and understanding its terms, the duly authorized representatives of Buyer and Seller have executed this Agreement effective as of February 9, 2017 (the "Contract Date").

Buyer:

High Plains Radio Network, LLC,
a Texas limited liability company

By: 

Monte L. Spearman, President

P.O. Box 1478

Plainview, Texas 79072

(806) 777-8542

monte.pp@hotmail.com

Seller:

Southwest Arkansas Media, LLC,
an Arkansas limited liability company

By: 

Michael Wilkins, Managing Partner

805 Wood Duck Lane

Russellville, AR 72801

(479) 967-5921

michael.e.wilkins@gmail.com

Schedule 1: The Radio Assets

A. Equipment & other Assets: List Attached (file #1)

B. Broadcast Rights & Broadcast Contracts: List Attached (file #2)

Schedule 2: The Excluded Assets

NONE

Schedule 3: The Included Liabilities

NONE

Schedule 4: The FCC Licenses

Schedule 5: Tower Sites and Office Leases

MLS
2-6-17