

## TIME BROKERAGE AGREEMENT AND OPTION

**THIS TIME BROKERAGE AGREEMENT AND OPTION** (this "Agreement") is made and entered into as of October 7, 2003 by and among Laramie Mountain Broadcasting, L.L.C. ("LMB") (the "Licensee") and Appaloosa Broadcasting Company, Inc. ("Broker"):

### WITNESSETH:

**WHEREAS**, LMB is the licensee of Station KRQU(FM), Laramie, Wyoming (the "Station") pursuant to the licenses issued by the Federal Communications Commission ("FCC");

**WHEREAS**, Broker desires to provide substantially all of the programming to be transmitted on the Station and to broker the sale of advertising time included in that programming pursuant to the provisions hereof and the applicable rules and regulations of the FCC; and

**WHEREAS**, Licensee desires to accept and to transmit programming supplied by Broker on the Station, while maintaining control over the Station and continuing to broadcast Licensee's own public-interest programming on the Station;

**WHEREAS**, Licensee desires to grant to Broker an exclusive, irrevocable right and option ("Option") to purchase good and marketable title to the assets owned by Licensee and used or useful in the operation of the Station and to obtain an assignment to Broker of all FCC licenses and authorizations related thereto ("Assets") (the "Optioned Station").

**NOW THEREFORE**, in consideration of these premises and the mutual promises, undertakings, covenants, and agreements of the parties contained in this Agreement, the parties hereto, intending to be legally bound, do hereby agree as follows:

### ARTICLE I PROGRAMMING

1.1 Brokered Programming. Broker will provide for transmission by the Station, at Broker's expense, of news, sports, informational, and entertainment programming, and associated advertising, promotional, and public-service programming and announcement matter sufficient to program the Station on a daily basis throughout the Initial Term, as hereinafter defined (the "Brokered Programming"). All Brokered Programming and its transmission by the Station shall be subject to the supervision and control of Licensee.

1.2 Licensee Programming. Licensee will retain sole responsibility which may be delegated to the Broker for the ascertainment of the problems, issues, concerns, and needs of the Station's community of license and its service area. Licensee will regularly communicate to Broker the results of Licensee's ascertainment of such problems, issues, concerns, and needs. The

60366686470 PAGE.04 FEB 28 2005 15:04

Brokered Programming will include programming which responds to the problems, issues, concerns, and needs ascertained by Licensee. Licensee shall have the right and the obligation to broadcast such additional programming, either produced or purchased by Licensee, as Licensee shall determine to be appropriate in order to respond to the ascertained problems, issues, concerns, and needs (the "Licensee Programming"). Such Licensee Programming shall be broadcast on Sunday mornings for up to two hours or at times agreed to by Broker and Licensee.

### 1.3 Additional Licensee Obligations.

(a) Although Licensee and Broker shall cooperate in the broadcast of emergency information over the Station, Licensee shall retain the right to interrupt, pre-empt, or delete the Brokered Programming in case of an emergency or for programming which does not contain commercial advertising and which, in the good-faith judgment of Licensee, is of greater local or national public importance than the Brokered Programming so interrupted, pre-empted, or deleted.

(b) Broker shall air the Station's hourly station identification and any other announcements required to be presented by the FCC's rules and regulations.

(c) Licensee and Broker shall cooperate in ensuring compliance with the FCC's rules and requirements governing uses of the Station's facilities by legally-qualified candidates for election to public office, including compliance with Licensee's obligation to provide reasonable access to use the Station's facilities on the part of legally-qualified candidates for election to federal public offices. Broker will provide Licensee with copies of any material setting forth terms and/or conditions for the availability of political advertising time on the Station in advance of the public dissemination of such material, so that Licensee may provide its input as to such material.

(d) In every case where Licensee preempts Broker's programming, Licensee will use its best efforts to give Broker reasonable advance notice of its intention to preempt such programs. In the event of such preemption, Broker shall receive a payment credit for any programming provided by it to the Station and not broadcast by the Station for whatever reason; provided that in accord with Section 1.2, Licensee shall retain two hours of broadcast time a week for its own programming, for which no payment credit shall be due. In no event shall any preemption, deletion or failure to broadcast Broker's programs take place for the commercial, business or economic advantage of Licensee.

1.4 Broadcast Station Programming Policy Statement. Licensee has adopted a Broadcast Station Programming Policy Statement (the "Policy Statement"), a copy of which appears as Schedule 1.4. The Policy Statement may be amended from time to time by Licensee in a non-material manner, upon notice to Broker. Broker agrees and covenants to comply in all material respects with the Policy Statement, with all rules and regulations of the FCC, and with all

non-material changes subsequently made by Licensee to the Policy Statement or by the FCC to its rules and regulations. Broker shall furnish or shall cause to be furnished the artistic personnel and material for the Brokered Programming as provided in this Agreement, and all Brokered Programming shall be prepared and presented in conformity with the rules, regulations, and policies of the FCC and with the Policy Statement set forth in Schedule 1.4 hereto. All advertising spots and promotional material or announcements shall comply with applicable federal, state, and local regulations and policies and the Policy Statement, and shall be produced in accordance with quality standards established by Broker. If Licensee shall determine that any Brokered Programming supplied by Broker is for any reason, within Licensee's sole discretion, unsatisfactory or unsuitable or contrary to the public interest, or does not comply with the Policy Statement, Licensee may, upon written notice to Broker (to the extent that time shall permit such notice) require Broker to alter the Brokered Programming and, in the absence of such alteration to Licensee's satisfaction on a timely basis, suspend or cancel such Brokered Programming and substitute Licensee's own programming or require Broker to provide suitable programming, commercial announcements, or other announcements or promotional material, subject to Section 1.3(d) above.

1.5 Broker Compliance With Copyright Act. Broker represents and warrants to Licensee that Broker has full authority to broadcast the Brokered Programming on the Station, and that Broker shall not broadcast any material in violation of the "Copyright Act." All music supplied by Broker shall be: (i) licensed by ASCAP, SESAC, or BMI; (ii) in the public domain; or (iii) cleared at the source by Broker. Licensee will maintain ASCAP, SESAC, and BMI licenses, as necessary. The right to use the Brokered Programming and to authorize its use in any manner shall be, and shall remain, vested in Broker.

1.6 Sales. Broker shall retain all revenues from the sale of advertising time within the Brokered Programming provided by Broker for broadcast by the Station. Broker may sell advertising on the Station in combination with any other broadcast Station of Broker's choosing. Broker shall be responsible for the payment of commissions due to any national sales representative engaged by Broker for the purpose of selling national advertising which is carried during the Brokered Programming. Licensee and Broker each shall have the right, at his or its own expense, to seek copyright royalty payments for his or its own programming.

1.7 Payola. Broker agrees that it will not accept, and will not permit any of its employees to accept, any consideration, compensation, gift, or gratuity of any kind whatsoever, regardless of its value or form, including, but not limited to, a commission, discount, bonus, material, supplies, or other merchandise, services, or labor (collectively, "Consideration"), whether or not pursuant to written contracts or agreements between Broker and merchants or advertisers, unless the payor is identified in the program for which the Consideration was provided as having paid for or furnished such Consideration, in accordance with the Communications Act of 1934, as amended (the "Act"), and FCC requirements.

## ARTICLE II OPERATIONS

### 2.1 Compliance With FCC Regulations.

(a) Licensee will have full authority, power, and control over the management and operations of the Station during the Initial Term of this Agreement, as hereinafter defined, and during any renewal term of this Agreement. Licensee will bear all responsibility for the Station's compliance with all applicable provisions of the Act, and the rules, regulations, and policies of the FCC. Broker shall, upon request by Licensee, provide Licensee with such information concerning Broker's programs and advertising as is necessary to assist Licensee in the preparation of such lists and documentation or to enable Licensee to verify independently the Station's compliance with any laws, rules, regulations, or policies applicable to the Station's operation.

(b) It is hereby agreed that at a minimum, Licensee will employ one (1) person on a full-time basis in a management-level capacity at the main studio of the Station, and a second person on either a full-time or a part-time basis in either a management-level capacity or other capacity at the main studio of the Station who will direct the day-to-day operations of the Station and who will report to and be accountable to Licensee (provided, however, that any employment on a part-time basis of a second person shall not result in any interference or disruption to, or diminution of, such part-time employee's discharge of his or her duties to Licensee as a consequence of such employee's part-time employment by one (1) or more employers other than Licensee).

2.2 Provision of Programming. Subject to Licensee's control and supervision, Broker shall provide the Brokered Programming and shall be responsible for implementing its transmission by the Station, utilizing assets owned by Broker to the extent necessary. To the extent that Broker shall reasonably request the use of tangible assets of the Station, as listed in Exhibit 2.2, that are owned by Licensee in order to enable Broker to fulfill its obligations under this Agreement, Licensee shall make the use of such assets reasonably available to Broker at no cost to Broker. To the extent that Licensee shall reasonably request the use of assets owned by Broker in order to enable Licensee to produce or to broadcast Licensee Programming or other programming as provided in Sections 1.2 and 1.3 hereof, or to fulfill Licensee's obligations pursuant to Section 2.1 hereof, Broker shall make the use of such assets reasonably available to Licensee.

### 2.3 Station Staffing.

(a) Subject to the provisions of Section 2.1 hereof, Licensee shall have sole discretion to make and to effectuate all staffing and personnel decisions involving Licensee's

## ARTICLE IV TERM

4.1 Initial Term. The initial term of this Agreement (the "Initial Term") shall commence on the date this Agreement is last executed, and shall expire three years from the date of this Agreement or on the date of consummation of sale of the Station to Broker, whichever is earlier, except for an provisions of Article VI which shall continue as provided for in Article VI. Licensee may terminate this Agreement, except for the obligations contained in Article VI hereof, upon 30 days' prior written notice to Broker.

### 4.2 Events of Default; Termination.

4.2.1 Broker's Events of Default. The occurrence of any of the following will be deemed an Event of Default by Broker ("Event of Default") under this Agreement: (a) Broker fails to make timely payments as provided for in Article III of this Agreement; (b) Broker fails to observe or perform its other obligations contained in this Agreement in any material respect; (c) Broker breaches the representations and warranties made by it under this Agreement in any material respect; or (d) Broker fails to exercise its option as provided in Section 6.2.

4.2.2 Licensee Events of Default. The occurrence of the following will be deemed an Event of Default by Licensee ("Event of Default") under this Agreement: (a) Licensee fails to observe or perform its obligations contained in this Agreement in any material respect; or (b) Licensee breaches the representations and warranties made by it under this Agreement in any material respect.

4.2.3 Cure Period. Notwithstanding the foregoing, except in the case of Broker's failure to exercise its option, an Event of Default will not be deemed to have occurred until fifteen (15) days after the non-defaulting party has provided the defaulting party with written notice specifying the Event of Default and such Event of Default remains uncured.

### ARTICLE III FEES AND OTHER CONSIDERATION

2.5 Accounts Receivable. Broker shall have no right or interest in any Accounts Receivable except as may otherwise be agreed by written agreement.

2.4 Station Maintenance. Licensee hereby delegates to Broker, under the supervision perform day-to-day maintenance of the Station's equipment used in connection with the broadcast of the Station's program material. Broker shall retain responsibility for all repairs and replacements necessary in order to maintain the Station's equipment in good working order and repair.

(c) Broker agrees to provide Licensee such information as Licensee may request concerning Broker's recruitment, hiring, or employment practices in connection with Broker's provision of the Brokered Programming to the Station.

(b) Broker shall employ and shall be solely responsible for the salaries, taxes, insurance, and related costs of all personnel whose services shall be used in the sale of commercial advertising time and the production of the Brokered Programming (including salespeople, traffic personnel, board operators, and programming staff). Broker's employees shall be solely accountable to Broker. Licensee shall employ and shall be solely responsible for the Station personnel necessary for the discharge by Licensee of its obligations under this Agreement, and Licensee shall be responsible for the salaries, taxes, insurance, and related costs of such personnel. Licensee's employees shall be solely accountable to Licensee.

employees. Broker shall have no control or right of review whatsoever over any decision by Licensee to hire or to dismiss any employee of Licensee.

#### 4.2.4 Termination in the Event of Default.

(a) Upon the occurrence of an Event of Default, and in the absence of a timely cure pursuant to Section 4.2.3, the non-defaulting party may terminate this Agreement, effective immediately upon written notice to the defaulting party.

(b) Licensee or Broker may terminate this Agreement on ten (10) days written notice if the Purchase Agreement is terminated for any reason other than the terminating party's material breach of the Purchase Agreement.

(c) If this Agreement is terminated, there shall be a final accounting of monies due but unpaid under this Agreement. In addition, Broker shall be entitled to all accounts receivable for the Station attributable to the Brokered Programming through the date of termination ("Damages"). Additionally, the Option Fee and all accrued interest shall be returned to Broker. Broker and Licensee hereby acknowledge that the injury that would be caused to Broker by such breach, default, or nonperformance on the part of Licensee would be difficult if not impossible to estimate with any degree of certainty and that the above-specified amount represents Licensee's and Broker's good-faith undertaking to compensate Broker fully and fairly for such injury and to liquidate Broker's damages therefore.

(d) In the event that such termination shall have been due to the breach, default, or nonperformance on the part of Broker under this Agreement, Licensee shall be entitled to retain Broker's Option Fee of Fifty Thousand Dollars (\$50,000) as the payment of liquidated damages for Broker's breach, default, or nonperformance, it being hereby acknowledged by Licensee and Broker that the injury that would be caused to Licensee by such breach, default, or nonperformance on the part of Broker would be difficult if not impossible to estimate with any degree of certainty and that the above-specified amount represents Licensee's and Broker's good-faith undertaking to compensate Licensee fully and fairly for such injury and to liquidate Licensee's damages therefore.

### **ARTICLE V**

### **REGULATORY MATTERS**

#### 5.1 Renegotiation Upon FCC Action.

(a) If the FCC shall determine that this Agreement is inconsistent with Licensee's obligations as the holder of the FCC's authorization for the Station, or is otherwise contrary to FCC policies, rules, and regulations, or if regulatory or legislative action subsequent to the date hereof shall alter the permissibility of this Agreement under the Act or under the FCC's rules, regulations, and policies, the parties shall renegotiate this Agreement in good faith and shall modify this Agreement in a manner that will cure the departure from statute, rule, regulation, or

policy and that will maintain a balance of benefits and burdens to Broker and Licensee comparable to the balance of benefits and burdens to Broker and Licensee provided in this Agreement in its current form.

(b) If, after such good-faith negotiations, either party shall determine that modifying this Agreement in order to cure the departure from statute, rule, regulation, or policy without materially changing the balance of benefits and burdens to Licensee and Broker provided in this Agreement in its current form shall not be possible, either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party.

(c) Such termination shall extinguish the rights and liabilities of Broker and Licensee under this Agreement from and after the effective date of such termination, other than rights and liabilities for pre-termination breaches of or defaults under this Agreement.

(d) Upon a termination of this Agreement, there shall be a final accounting of monies pre-paid and due but unpaid under this Agreement.

(e) If Broker elects to terminate the Agreement, provided Broker is not in breach of this Agreement, then upon such termination, Licensee and Broker shall instruct the Escrow Agent to return the Option Fee and all accrued interest to Broker.

5.2 FCC Matters. Should a change in FCC policy or rules make it necessary to obtain the FCC's consent to the implementation, continuation, or further effectuation of any element of this Agreement, Licensee and Broker shall use their best efforts diligently to prepare, file, and prosecute before the FCC all petitions, waiver requests, applications, amendments, rulemaking comments, and other documents necessary to secure and/or to retain the FCC's approval of all aspects of this Agreement. Broker and Licensee shall bear in equal measure the reasonable cost of preparing any such filings; provided, however, that each party shall have approved such expenditures in advance of their being incurred and provided further that Broker shall not bear any of the costs associated with the Option Preconditions. Notwithstanding anything in this Agreement to the contrary, no joint filing shall be made with the FCC by Licensee and Broker with respect to this Agreement, unless both parties hereto shall have reviewed said filing and shall have consented to its submission to the FCC; and neither Licensee nor Broker shall make any unilateral filing with the FCC with respect to this Agreement, unless the party intending to make such filing shall first have consulted with the other party concerning such filing.

## ARTICLE VI OPTION

6.1 Grant of Option. In consideration of Broker's payment to Licensee the sum of **Fifty Thousand Dollars (\$50,000)** ("Option Fee"), the receipt and sufficiency of which are hereby acknowledged, Licensee hereby grants to Broker, and Broker hereby accepts the Option



to acquire the KRQU Station Assets as listed in Schedule 6.1, from Licensee, except as otherwise limited below.

6.2 Option Period. Subject to Sections 6.3 and 6.4, the Option to purchase KRQU may be exercised by Broker (a) commencing on satisfaction of the KRQU Option Precondition (as defined in Section 6.3) and terminating thirty (30) days after receipt of the Option Notice (as defined below) or (b) if the Licensee has not (i) filed with the FCC an application requesting consent to the modification of the Station's facilities, or (ii) taken any other action as contemplated by Sections 6.3 or 6.4 hereof, on or before May 1, 2006, during the period from May 1, 2006 to November 1, 2006, whichever time period of (a) or (b) is sooner (the "Option Period"). The Option for purchase of the Station shall be made by written notice to Licensee (the "Exercise Notice"). If applicable, Licensee has the obligation to provide Broker with documentation from the FCC which demonstrates the KRQU Option Precondition is satisfied ("Option Notice").

6.3 KRQU Option Precondition. The KRQU Option may not be exercised until Licensee has filed with the FCC an application on FCC Form 301 (or such successor form thereto) requesting the FCC to modify the license of the Station to specify different operating facilities of the Station at a location other than that it is operating at as of the date of this Agreement, which may include a change in class of FM channel. Licensee shall have the absolute right to apply to the FCC for modification of the Station's facilities in any way it chooses. On the issuance of a public notice by the FCC announcing the grant of a construction permit for the Station's modified facilities, the KRQU Option Precondition shall have been satisfied ("KRQU Option Precondition"). Licensee shall also confirm in writing to Broker the satisfaction of the KRQU Option Precondition. Licensee may, in lieu of pursuing this KRQU Option Precondition, pursue the KRQU Upgrade as described in Section 6.4.

In the event the KRQU Option Precondition has not been satisfied prior to November 1, 2006 or the KRQU Option Precondition is satisfied and the Station does not, as a result of the modification of the Station's license, continue to provide a 70 dBu signal to any portion of the land constituting the city of Laramie, Wyoming, the Option for acquisition of KRQU Station Assets shall expire and Licensee shall immediately refund to Broker the Fifty Thousand Dollar (\$50,000) Option Fee.

6.4 KRQU Upgrade. Licensee may at its sole discretion at any time seek to take any action, including an FCC rulemaking, involving a change in the Station's city of license, in order that the Station will provide at least a 60dBu signal over 80% of the land constituting the city of Fort Collins, Colorado or another city not including Laramie, Wyoming. In the event Licensee is able to obtain a construction permit for the Station to provide coverage of Fort Collins or such other community as contemplated herein, Broker's option to acquire the Station shall expire, but Broker shall instead have a first right of refusal to acquire the Station at fifteen percent (15%) less than the purchase price contained in a bona fide offer by any entity to Licensee that Licensee is

willing to accept. Broker shall be given written notice of such offer and Broker, with the exception of the 15% reduction of the purchase price, shall be required to meet all the terms and conditions of the offer and to demonstrate its ability to meet such conditions within thirty (30) days of receipt of the offer should Broker choose to exercise its first right of refusal. This first right of refusal shall expire on November 1, 2007.

6.5 Terms of Purchase Agreement. Within thirty (30) days of the date of the Exercise Notice, Licensee and Broker shall negotiate the terms and conditions of, and enter into, a purchase agreement for the sale of the Station to Broker (the "Purchase Agreement"), such Purchase Agreement to reflect and include the following terms and other terms customarily included in such agreements:

6.5.1 KRQU Purchase Price. The purchase price for Station KRQU ("KRQU Purchase Price") shall be Four Hundred Thousand Dollars (\$400,000) payable on the date of consummation of the transactions contemplated by the Purchase Agreement (the "Closing Date") as follows: Broker shall pay to Licensee Three Hundred Thousand Dollars (\$300,000) in immediately available funds on the Closing Date, as defined herein; Broker shall pay Licensee the balance of the KRQU Purchase Price by delivery of a promissory note ("Note") in the amount of One Hundred Thousand Dollars (\$100,000) plus interest at 6% per annum payable in one balloon payment 24 months from the date of Closing. The Note will be secured by the personal guarantees of all stockholders of Broker. The guarantee shall be in a form reasonably satisfactory to Licensee.

6.5.2 FCC Consent. Licensee and Broker will cooperate to file any application(s) required to seek the consent of the Federal Communications Commission ("FCC") to the assignment of the FCC authorizations for the Optioned Station to Broker, and to use diligent efforts to prosecute such application(s) to a successful conclusion. The parties shall share equally the cost of any FCC filing fee to secure such consent.

6.5.3 Closing. The closing of the purchase and sale of the Optioned Station shall occur at a time and place to be agreed upon by the Licensee and Broker, such time to be not later than ten (10) days after the consent of the FCC described in subsection 6.4(b) has become effective and become a final, unappealable order ("Closing Date") which shall be no more than one year after the assignment application is filed.

6.5.4 Closing Documents. On the Closing Date, Licensee and Broker shall execute and deliver such closing documents as are customary in this type of transaction, including a bill of sale, an assignment and assumption of licenses, contracts and other intangible assets, warranty deeds and any other documents required to the Optioned Station to Broker. Notwithstanding the foregoing, Broker shall not assume from Licensee any employment, labor or collective bargaining agreement, any pension or retirement plans, assets or liabilities, or any obligations of Licensee or the Optioned Station arising in the period prior to the Closing Date

other than (i) those for which Broker is responsible pursuant to the Time Brokerage Agreement between Broker and Licensee; (ii) those for which a closing prorating or adjustment in favor of Broker has been agreed to by Licensee and Broker, and (iii) agreements for the sale of advertising time on the Optioned Station for cash in the period after the Closing Date.

6.5.5 Licensee's Representations and Warranties. The Purchase Agreement shall contain representations and warranties by the parties customary in this type of transaction. As to the Optioned Station, Licensee shall represent and warrant to Broker that, at the moment of title transfer, Licensee shall have transferred good and marketable title to the Optioned Station to Broker, free and clear of any and all security interests, liens, mortgages, claims, charges, encumbrances, options and any other rights of others of any nature whatsoever excluding liens for taxes not yet due and payable and easements of record not materially affecting Broker's use and enjoyment of the Optioned Station.

6.5.6 Security. Broker shall provide security as described in Section 6.5.1 to secure payment of the KRQU Purchase Price.

6.5.7 Liquidated Damages. The Purchase Agreement shall provide that liquidated damages of \$50,000 shall be paid by the Broker on material breach of the Purchase Agreement by the Broker.

## **ARTICLE VII**

### **REPRESENTATIONS, WARRANTIES, AND COVENANTS**

7.1 Licensee's Representations and Warranties. Licensee represents and warrants to Broker as follows:

7.1.1 Capacity. Licensee is a limited liability company duly organized under the laws of the Commonwealth of Virginia, and is in good standing and have full power and has authority to own property, licenses, and permits, and to carry out all of the transactions contemplated by this Agreement.

7.1.2 Authority. All requisite authorizations necessary for the execution, delivery, performance, and satisfaction of this Agreement by Licensee have been duly obtained, adopted, and complied with.

7.1.3 Authorizations. Licensee owns and holds all licenses, permits and authorizations necessary for the operation of the Station and such licenses and such licenses, permits and authorizations will be in full force and effect for the term of this Agreement, unimpaired by any acts or omissions of Licensee, its employees or agents. There is not now pending or, to Licensee's best knowledge, threatened, any action by the FCC or other party to revoke, cancel, suspend, refuse to renew or modify adversely any such licenses, permits or

authorizations or the imposition of any restriction thereon of such a nature that may limit the operation of the Station.

7.1.4 Insurance. Licensee will maintain in full force and effect throughout the term of this Agreement insurance with responsible and reputable insurance companies or associations covering such risks, including fire and other risks insured against by extended coverage, public liability insurance, insurance for claims against personal injury or death or property damage and such other insurance as is customarily provided for radio station operation. Any insurance proceeds received by Licensee in respect of damaged property will be used to promptly repair or replace such property so that the operation of the Station conforms with this Agreement.

7.1.5 Misrepresentation of Material Fact. No representation or warranty made by Licensee to Broker in this Agreement, no document or contract disclosed to Broker by Licensee pursuant to this Agreement and which in any way affects any of the properties, assets, or proposed business of Licensee as related to this Agreement, and no certificate or statement furnished by or on behalf of Licensee to Broker in connection with the transactions contemplated herein or therein contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements contained herein or therein not misleading.

7.2 Broker's Representations and Warranties. Broker represents and warrants to Licensee as follows:

7.2.1 Organization. Broker is a corporation in good standing under the laws of the State of Delaware and has full power and authority to own its property and to carry out all of the transactions contemplated by this Agreement.

7.2.2 Authority. All requisite resolutions and other authorizations necessary for the execution, delivery, performance, and satisfaction of this Agreement by Broker have been duly obtained, adopted, and complied with.

7.2.3 Misrepresentation of Material Fact. No representation or warranty made by Broker to Licensee in this Agreement, no document or contract disclosed to Licensee by Broker pursuant to this Agreement and which in any way affects any of the properties, assets, or proposed business of Broker as related to this Agreement, and no certificate or statement furnished by or on behalf of Broker to Licensee in connection with the transactions contemplated herein or therein contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements contained herein or therein not misleading.

## **ARTICLE VIII** **MISCELLANEOUS**

8.1 Assignability. This Agreement shall inure to the benefit of and be binding upon Licensee, Broker, and their respective successors and permitted assigns; provided, however, that neither Licensee nor Broker shall assign or transfer its rights and benefits, or delegate its duties and obligations, under this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld.

8.2 Force Majeure. Notwithstanding anything contained in this Agreement to the contrary, neither party shall be liable to the other party for a failure to perform any obligation under this Agreement (nor shall any charges or payments be made in respect thereof), if such party shall be prevented from such performance by reason of fires, strikes, labor unrest, embargoes, civil commotion, rationing, or other orders or requirements, acts of civil or military authorities, acts of God, or other contingencies beyond the reasonable control of the parties, including equipment failures and the denial by the FCC of Licensee's application to the FCC for the FCC's renewal of Licensee's FCC licenses for the Station due to a comparative challenge by a third party; and all provisions herein requiring performance with a specified period shall be deemed to have been modified in order to toll or to extend the period in which such performance shall be required, in order to accommodate the period of the pendency of such contingency which shall prevent such performance.

8.3 Notices. All notices, requests, demands, and other communications that are required or that may be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been given when delivered by hand or when deposited (with delivery charges pre-paid) with a nationally-recognized overnight courier service, or on the third (3rd) business day after having been mailed by first-class United States mail, registered or certified, postage pre-paid, with return receipt requested, to the following addresses:

(a) if to Licensee: Victor A. Michael, Jr.  
Laramie Mountain Broadcasting, L.L.C.  
6807 Foxglove Drive  
Cheyenne, WY 82009

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

A. Wray Fitch III, Esq.  
Gammon & Grange, P.C.  
8280 Greensboro Drive, 7th Floor  
McLean, VA 22102-3807

(b) if to Broker: Steven Silberberg

Appaloosa Broadcasting Company, Inc.  
788 South River Road  
Bedford, NH 03110

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

Barry A. Friedman, Esq.  
Thompson Hine LLP  
1920 N. Street, N.W., Suite 800  
Washington D.C. 20036

or to such other address as any party shall have designated by notice to the other party conforming to the requirements of this Section.

8.4 Duty to Consult. Each party will use its best efforts not to take any action that would unreasonably interfere with, threaten, or frustrate the other party's purposes or business activities, and each party will keep such other party informed of, and will coordinate with such other party regarding, any activities that may have a material effect upon such other party.

8.5 Press Releases. Except as may be required by law or by any governmental agency, no announcement to the press or to any third party of the transactions contemplated herein shall be made by either party to this Agreement, unless such announcement shall have been approved in advance in writing by both Broker and Licensee.

8.6 Severability. Subject to Section 5.1 hereof, if any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remainder of this Agreement shall not be affected thereby, and the parties shall use their best efforts to negotiate a replacement for any such provision that shall be neither invalid, illegal, or unenforceable.

8.7 Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior representations, negotiations, agreements, and understandings of the parties, oral and written, with respect to the subject matter hereof, all of which are deemed to have been merged herein. This Agreement may be modified only by an agreement in writing executed by both of the parties hereto.

8.8 Survival. All representations, warranties, covenants, and agreements made herein by the parties hereto or in any certificate delivered or to be delivered hereunder or made or to be made in writing in connection with the transactions contemplated herein shall survive the execution and delivery of this Agreement. All such representations and warranties shall survive for a period of three (3) years from and after the date upon which this Agreement shall expire or shall be terminated, as herein provided.

8.9 Payment of Expenses. Except as otherwise specifically provided herein, Licensee and Broker shall each pay his or its own expenses incident to the preparation and carrying out of this Agreement, including all fees and expenses of his or its counsel.

8.10 Further Assurances. From time to time after the date of this Agreement, the parties shall take such further actions and shall execute such further documents, assurances, and certificates, as either party reasonably may request of the other party in order to effectuate the purposes of this Agreement.

8.11 Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one (1) and the same instrument.

8.12 Headings. The headings in this Agreement are for the sole purpose of convenience of reference, and shall not in any way limit or affect the meaning or interpretation of any of the terms or provisions of this Agreement.

8.13 Dealings With Third Parties. Neither party is, nor shall hold himself or itself out to others to be, vested with any power, authority, or right to bind contractually or to act on behalf of the other party as his or its broker, agent, or otherwise for the purpose of committing, selling, conveying, or transferring any of the other party's assets or property, contracting for or in the name of the other party, or making any representations binding upon such other party.

8.14 Indemnification.

(a) Each party shall forever, to the fullest extent permitted by law, protect, save, defend, and keep the other party harmless, and indemnify such other party from and against, all claims, demands, causes of action, losses, investigations, proceedings, penalties, fines, expenses, and judgments, including reasonable attorneys' fees and costs, arising directly or indirectly out of such party's negligence or willful misconduct or the negligence or willful misconduct of such party's agents or employees in connection with this Agreement, or arising out of such party's breach of or default or non-performance of his or its representations, warranties, covenants, agreements, and obligations under this Agreement.

(b) Broker shall forever, to the fullest extent permitted by law, protect, save, defend, and keep Licensee and its employees and agents harmless, and indemnify it and them from and against, any and all losses, damages, liabilities, or expenses, including reasonable attorney's fees, resulting from any claim of libel, slander, defamation, copyright infringement, idea misappropriation, invasion of right of privacy or publicity, or any other claim against Licensee arising out of the Brokered Programming; provided, however, that Licensee shall give Broker prompt notice of any claim against Licensee or the Station and shall cooperate in good faith with Broker in any attempt to defend against, resolve, or settle such claim. The indemnification

provided in this Section shall not apply to any matter that Licensee may insert in or adjacent to the Brokered Programming or to programming originated by Licensee.

8.15 Governing Law. This Agreement shall be governed by, and enforced and construed under and in accordance with, the internal laws of the State of Wyoming, without giving effect to the choice-of-law principles of said State.

8.16 Gender Neutrality. All pronouns and possessives appearing in this Agreement shall be deemed to refer to the masculine, the feminine, or the neuter, as the identity of the person or entity thereby referred to may require.

8.17 Certifications. Licensee certifies that it maintains ultimate control over the facilities of the Station, including, specifically, control over Station finances, personnel and programming. Broker certifies that this Agreement complies with the Commission's restrictions on multiple station ownership set forth in Section 73.3555(a)(1) of the rules of the Federal Communications Commission.

8.18 Modification of Facilities. Notwithstanding anything to the contrary herein, Licensee may modify, at the sole cost of Licensee, the facilities of the Station in order to accommodate grant of a KRQU Option Precondition or a KRQU Upgrade, as more specifically described in Article VI hereof. Such modifications can include relocation of the Station and its facilities to a new site and/or changes in the Station's transmission facilities. Broker shall reasonably cooperate with Licensee to enable Licensee to file any required applications. Broker shall have no financial responsibility in regard to any KRQU Option Preconditions and Licensee shall pay all costs necessary to allow Broker to continue to broker time on the Station so long as this Agreement is in full force and effect.

8.19 Prior Programmer. Notwithstanding anything to the contrary herein, Licensee makes no representations or warranties, nor any agreement to indemnify for any possible claim, allegation, or other matter which may be raised or alleged by Randy Timothy or Turn the Page Broadcasting, Inc., the time broker of the Station prior to execution of this Agreement.

8.20 Drafting. This Agreement shall not be construed against either party based on authorship of the Agreement. Each party shall be deemed to have participated equally in drafting the Agreement with advice of counsel.

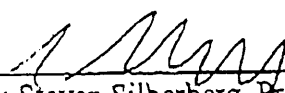


IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

LARAMIE MOUNTAIN BROADCASTING, L.L.C.

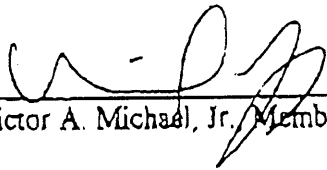
By \_\_\_\_\_  
Victor A. Michael, Jr., Member

APPALOOSA BROADCASTING COMPANY, INC.

By  \_\_\_\_\_  
Name: Steven Silberberg, President

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

LARAMIE MOUNTAIN BROADCASTING, L.L.C.

By  \_\_\_\_\_  
Victor A. Michael, Jr. Member

APPALOOSA BROADCASTING COMPANY, INC.

By \_\_\_\_\_  
Name. Steven Silberberg, President

## SCHEDULE 1.4

### BROADCAST STATION PROGRAMMING POLICY STATEMENT

Broker agrees to cooperate with Licensee in the broadcasting of programs of the highest possible standard of excellence, and for this purpose to observe the following regulations in the preparation, writing, and broadcasting of its programs.

- I. No Plugola or Payola. Except for commercial material aired in compliance with 47 C.F.R. § 73.1212, Broker shall not receive any consideration in money, goods, services, or otherwise, directly or indirectly (including receipt by relatives of Broker, its partners, agents, or employees) from any person or company for the presentation of any programming over the Station, without reporting the same to Licensee's General Manager. The commercial mention of any business activity or "plug" for any commercial, professional, or other related endeavor, except where contained in an actual commercial message or program of a sponsor, is prohibited.
- II. No Lotteries. Announcements giving any information about lotteries or games, to the extent that such announcements are prohibited by federal or state law or regulation, are prohibited.
- III. Election Procedures. At least fifteen (15) days before the start of any primary or general election campaign, Broker will clear with Licensee's General Manager the rates that Broker will charge for advertising time to be sold on the Station to legally-qualified candidates for election to public office and/or to their supporters, in order to make certain that the rates charged are in conformance with applicable law and Station policy.
- IV. Required Announcements. Broker shall broadcast (i) an announcement in a form satisfactory to Licensee at the beginning and at the end of each day's transmissions by the Station, and at the beginning of each hour during the Station's operations, to identify the Station, and (ii) any other announcements that may be required by law, regulation, or Licensee policy.
- V. No Illegal Announcements. No announcements or promotion prohibited by federal or state law or regulation shall be made over the Station. Any game, contest, or promotion relating to or to be presented over the Station must be fully stated and explained in advance to Licensee, which reserves the right in his sole discretion to reject any game, contest, or promotion.
- VI. Licensee Discretion Paramount. In accordance with Licensee's responsibility under the Act and the rules and regulations of the FCC, Licensee reserves the right to

reject or to terminate any advertising proposed to be presented or being presented over the Station which is in conflict with Station policy or which in Licensee's or its General Manager's sole judgment would not serve the public interest.

Licensee may waive any of the foregoing regulations in specific instances if, in its opinion, the Station will remain in compliance with all applicable laws, rules, regulations, and policies and if broadcasting in the public interest will be served. In any case where questions of policy or interpretation arise, Broker should submit such questions to Licensee for decision before making any commitments in connection therewith.

EXHIBIT 2.2

## KRQU EQUIPMENT INVENTORY

### KROU EQUIPMENT :

#### STUDIO:

ITEM	MAKE	MODEL	DESCRIPTION
1	Yamaha	RX 396	Stereo Receiver
2	TFT		STL Transmitter
3	TFT	EAS 930	EAS receiver
4	TFT	EAS 911	EAS Encoder/Decoder
5	Aphex	320	Stereo AGC
6	Optimod	8200 V.3	FM Audio Processor
7	Synclix	581 E	Audio Distribution Amp
8	DBX	166 XL	(2) 2- Channel Limiters
9	HP	Pavillion X1948	Pentium Computer
10	COMTEK	Pentium 4	On-Air Computer
11	BSI	Audio Card/Simian	Audio Program / Audio card
12	Tripplite	UPS System	Battery Backup
13	Henry Engineering	Matchbox	Hi-Lo Impedance Match
14	RCA	Metal Rack	6' Equipment Rack
15	Various	17" Monitors	(2) 17" Comp. SVGA Mon.
16	Office Max	Keyboard trays	(2) Keyboard / Monitor Trays
17	Audio Metrics	Heavy Duty	(3) Mic Booms
18	Shure	SM-7	(3) Microphones
19	Audio Arts	A-17	Audio Mixing Board
20	TEAC	CDP 1160	(2) Cd players
21	TEAC	W505K	Double Play Cassette Deck
22	Gentner	SPH-10	Telephone Hybrid
23	RANE	ME-15	Graphic Equalizer
24	Evinrude	Model H3000	Ultra-harmonizer Effects Unit
25	Symetrix	528E	Mic Processor
26	Radio Shack	Speaker	Telephone Caller Monitor
27	Symetrix	528	Mic Processor
28	Cerwin-Vega	LS-6	Monitor Speakers
29	Radio Shack	Speaker Stands	Monitor Speaker Stands
30	Home Fabrication		Studio Furniture
31	Chairs	various	Office type Chairs
32	GE	2-line	Guest area telephone
33	BSI	SIMIAN V 1.5	On Air Computer Automation
34	BSI	SIMIAN Support	Paid Through July of 2004

## KRQU EQUIPMENT INVENTORY

### KRQU EQUIPMENT:

#### TRANSMITTER SITE:

ITEM	MAKE	MODEL	DESCRIPTION
1	Energy Onix	6 kW	FM Transmitter
2	SWR Antenna Systems	3-Bay	FM Antenna W/Radomes
3	Cablewave	1 5/8"	Coax w/couplers
4	TFT	STL Receiver	Composite STL Receiver
5	Motorola		Bag Phone and Tip Ring Adapter
6	Burk	ARC-16	Remote Control
7	Various	Exciter	30 Watt Fm Exciter
8	Armstrong	300 Watt	FM RF Power Amp
9	Various		6' Metal Equipment Rack

### PA EQUIPMENT:

#### STUDIO:

ITEM	MAKE	MODEL	DESCRIPTION
1	Peavey	PX-500	2-Channel Power Amp
2	Sony	STR-DE305	Stereo receiver
3	Various		Mics/Mixer/cables/12Supply
4	Peavey	112 TLS	Monitor Speakers

### ROOFTOP EQUIPMENT:

#### STUDIO: Used for KIMX / KRQU

ITEM	MAKE	MODEL	DESCRIPTION
1	Various	Andrew/Cablewave	Coax and jumpers
2	SCALA	PR-960	STL Grid Antenna
3	Various	3 meter Dish	(?) Used for Sat. Delivery
4	NICOM	Grid Antenna	4' Grid STL Antenna
5	SCALA	MiniFlector	(1) STL Grid Antenna
6	Various		RF Antenna Beams

**KROU EQUIPMENT INVENTORY****OFFICE EQUIPMENT:****STUDIO:**

<u>ITEM</u>	<u>MAKE</u>	<u>MODEL</u>	<u>DESCRIPTION</u>
1	Brother	Intellifax 1270	Facsimile Machine
2	Sanyo	AM-FM Radio	Receptionist radio
3	Various	Pentium Computer	Receptionist Computer
4	various	17" Monitor	SVGA Monitor
5	various		Reception Area Furniture
6	ATT	8 X 20	8 line 20 extension phones

**SALES AREA:****STUDIO:**

<u>ITEM</u>	<u>MAKE</u>	<u>MODEL</u>	<u>DESCRIPTION</u>
1	Canon	PC-720	Printer
2	Various	Pentium Computer	Sales Computer
3	Various	15" Monitor	SVGA Computer Monitor
4	Various		File Cabinets
5	Various		Sales Area Furniture
6	Various	Plastic Folding Tables	(2) 6' Folding Tables
7	Various	Microwave/Coffee Maker Refrigerator	

**KENDRA (MANAGER) OFFICE:****STUDIO:**

<u>ITEM</u>	<u>MAKE</u>	<u>MODEL</u>	<u>DESCRIPTION</u>
1	Various	(6) 4-Drawer	Metal File Cabinets
2	Various	2-Door Vertical	Metal Storage Cabinet
3	Various		Office Furniture
4	HP	LaserJet 2200D	Printer
5	COMTEK	Pentium Computer	Traffic Computer
6	Various	17" Computer Monitor	Traffic Computer