

# EXCHANGE AGREEMENT

DATE: May 27, 1999

PARTIES: ONE MART, CORP., an Arizona corporation  
2741 West Southern, Suite 2  
Tempe, AZ 85282  
Attention: Armando Zamora  
Phone: 602-426-9606  
Facsimile: 602-426-9617

("One Mart")

CORTARO BROADCASTING CORPORATION, an Arizona corporation  
1445 West Baseline  
Phoenix, Arizona 85041  
Attention: Moises Herrera, Jr.  
Phone: 602-276-4241  
Facsimile: 602-230-6245

("Cortaro")

FIRST AMERICAN TITLE INSURANCE, an Arizona corporation  
111 West Monroe, Suite 202  
Phoenix, Arizona 85003  
Attention: Carol Peterson  
Phone: 602-256-3701  
Facsimile: 602-254-0872  
Escrow No.: 20180-124 0686

("Escrow Agent")

## RECITALS.

A. One Mart is the owner and operator of that certain radio station known as KCKY (AM), 1150 kHz, Coolidge, Arizona ("KCKY"), which consists of the following assets (collectively referred to as the "KCKY Assets"):

1. That certain real property located in Coolidge, Pinal County, Arizona, more particularly described on *Exhibit A*, attached hereto and incorporated herein by this reference (the "Coolidge Property");

2. The lessee's interest under that certain Standard Office Lease-Gross dated October 9, 1998, by and between Thomas Vedres, dba T&R Properties, as lessor, and One Mart, as lessee, as amended by that certain Lease Addendum A (as amended, the "KCKY Lease");

3. Any and all authorizations issued by the Federal Communications Commission ("FCC") to date, and any and all authorizations issued by the FCC between the date of execution of this Agreement and the date of Closing, used, to be used or useful in the operation of KCKY (the "KCKY Licenses"); and

4. That certain radio transmission equipment used in connection with the operation of KCKY, more particularly described on *Exhibit B*, attached hereto and incorporated herein by this reference (the "KCKY Equipment").

B. In connection with its acquisition of KCKY, One Mart executed the following promissory notes (collectively, the "KCKY Debt"):

1. That certain Promissory Note dated January 23, 1998, in the original principal amount of \$175,150.02, executed by One Mart in favor of Grande Voz Inc., an Arizona corporation, having a principal balance as of May 7, 1999, in the amount of \$158,428.18 (the "Grande Voz Note"); and

2. That certain Promissory Note dated January 23, 1998, in the original principal amount of \$38,217.55, executed by One Mart in favor of Nicamex, Inc., an Arizona corporation, having a principal balance as of May 18, 1999, in the amount of \$24,217.55 (the "Nicamex Note").

C. Cortaro is the owner and operator of that certain radio station known as KEVT (AM), 1030 kHz, Tucson, Arizona ("KEVT"), which consists of the following assets (collectively referred to as the "KEVT Assets"):

1. The lessee's interest under that certain Lease dated February 18, 1993, by and between Vywyn L. Garrett, Edward V. Casanova and Edna M. Casanova, as lessors, and Cortaro, as lessee (the "KEVT Lease"), pertaining to that certain real property more particularly described on *Exhibit C*, attached hereto and incorporated herein by this reference (the "Tucson Property");

2. Any and all authorizations issued by the FCC to date, and any and all authorizations issued by the FCC between the date of execution of this Agreement and the date of Closing, used, to be used, or useful in the operation of KEVT (the "KEVT Licenses"); and

3. That certain radio transmission equipment used in connection with the operation of KEVT, more particularly described on *Exhibit D*, attached hereto and incorporated herein by this reference (the "KEVT Equipment").

D. One Mart and Cortaro wish to exchange the KCKY Assets for the KEVT Assets upon the terms and conditions set forth in this Exchange Agreement (the "Agreement").

## 1. AGREEMENT OF THE PARTIES

1.1 **Agreement.** In consideration of the mutual promises and covenants set forth in this Agreement, One Mart agrees to convey the KCKY Assets to Cortaro, and Cortaro agrees to convey the KEVT Assets to One Mart, on the terms and conditions set forth in this Agreement.

## 2. ADDITIONAL TERMS OF EXCHANGE

2.1 **Cortaro Payments.** As further consideration for the exchange provided for hereunder, Cortaro agrees to pay to One Mart the following payments outside of the Escrow, as hereinafter defined:

A. Thirty Thousand and No/100 Dollars (\$30,000.00) in cash, payable upon the execution of this Agreement; and

B. One Hundred Thousand and No/100 Dollars (\$100,000.00) to be paid in equal monthly installments of \$8,333.33 per month on or before the first (1<sup>st</sup>) day of each calendar month, commencing July 1, 1999. If Cortaro fails to make a payment when due and payable, the entire balance then due of the \$130,000.00 shall be immediately due and payable without presentment or demand or any notice to Cortaro and One Mart shall have all rights and remedies available to it at law and in equity including, without limitation, the right to bring an action against Cortaro for the balance due.

C. The entire One Hundred Thirty Thousand and No/100 (\$130,000.00) is absolutely non-refundable under any circumstances.

2.2 **KCKY Debt.** One Mart hereby agrees that the monthly payments set forth in paragraph 2.2.B above, shall be applied by One Mart to payment of the Grande Voz Note. One Mart further agrees to pay the KCKY Debt in full on or before the Closing, as hereinafter defined. In the event that said debt is not satisfied in full prior to the Closing, One Mart shall be entitled to extend the term of this Agreement, the Closing and the License Agreement for an additional six (6) months

upon the same terms and conditions set forth herein, in order to accomplish such payment in full.

### 2.3 KEVT Lease.

A. One Mart and Cortaro acknowledge that Cortaro is delinquent in its rent obligations under the KEVT Lease. Cortaro and One Mart agree that in the event that the landlord under the KEVT Lease exercises its rights and remedies with respect to the KEVT Lease and terminates said KEVT Lease, the exchange contemplated hereunder shall not occur and this Agreement may be declared null and void by One Mart in One Mart's sole and absolute discretion. In such an event, however, Cortaro shall still be obligated to pay to One Mart the One Hundred Thirty Thousand and No/100 (\$130,000.00) contemplated by Section 2.1 above. The entire balance of the One Hundred Thirty Thousand and No/100 (\$130,000.00) owed as of the date of cancellation of the KEVT Lease shall be immediately due and payable on or before the thirtieth (30<sup>th</sup>) day after the date of cancellation of the KEVT Lease. If Cortaro fails to pay the balance due as required hereunder, One Mart shall have all rights and remedies available to it at law and in equity including, without limitation, the right to bring an action against Cortaro for the balance due.

B. Cortaro and One Mart acknowledge that the KEVT Lease includes a purchase option for the acquisition of the Tucson Property (the "Option"), the terms of which are not acceptable to One Mart. Cortaro and One Mart agree that notwithstanding the KEVT Lease, One Mart shall be entitled to acquire the Tucson Property prior to or concurrent with the Close of Escrow upon terms and conditions satisfactory to One Mart in its sole and absolute discretion. In such an event, Cortaro agrees to enter into a termination of the KEVT Lease and the Option. If the purchase price for the Tucson Property is \$425,000.00 or less, the entire purchase price shall be the responsibility of One Mart. In the event the purchase price is between \$425,000.00 and \$500,000.00, One Mart shall be responsible for the first (1<sup>st</sup>) \$425,000.00 of the purchase price, and thereafter, One Mart and Cortaro shall each be responsible for one-half (1/2) of the amount in excess of \$425,000.00. If the purchase price is in excess of \$500,000.00, One Mart shall be responsible for the first (1<sup>st</sup>) \$425,000.00 of the purchase price, Cortaro and One Mart shall each be responsible for one-half (1/2) of the next \$75,000.00 of the purchase price, and Cortaro shall be responsible for any amount in excess of \$500,000.00. The Closing for the acquisition of the Tucson Property shall occur concurrently with the Closing hereunder. If One Mart is unsuccessful in acquiring the Tucson Property, upon terms and conditions satisfactory to One Mart in its sole and absolute discretion, the exchange contemplated hereunder shall not occur until such time as One Mart acquires a Substitute Property (as defined in paragraph 2.3.C below). At such time as One Mart determines it cannot acquire the Tucson Property, One Mart shall provide

notice to Cortaro that it cannot acquire the Tucson Property. The entire balance of the One Hundred Thirty Thousand and No/100 Dollars (\$130,000.00) owed as of the date of the notice shall be immediately due and payable on or before the thirtieth (30<sup>th</sup>) day after the date of the notice. If Cortaro fails to pay the balance of the One Hundred Thirty Thousand and No/100 Dollars (\$130,000.00) then due, One Mart shall have all rights and remedies available to it at law and in equity including, without limitation, the right to bring an action against Cortaro.

C. If One Mart is unsuccessful in acquiring the Tucson Property, One Mart and Cortaro shall cooperate in good faith to find a substitute property (the "Substitute Property") which Substitute Property is acceptable to One Mart and Cortaro. One Mart shall be entitled to acquire the Substitute Property prior to or in connection with the Close of Escrow upon terms and conditions satisfactory to One Mart in its sole and absolute discretion. If the purchase price and the cost of moving all KEVT Equipment located on the Tucson Property, including without limitation the towers and all FCC application preparation and engineering expenses, filing fees and prosecution costs (the "Moving Costs") for the Substitute Property is Four Hundred Twenty-Five Thousand and No/100 Dollars (\$425,000.00) or less, the entire purchase price shall be the responsibility of One Mart. In the event the purchase price for the Substitute Property and the Moving Costs is between \$425,000.00 and \$500,000.00, One Mart shall be responsible for the first (1<sup>st</sup>) \$425,000.00 of the purchase price, and thereafter, One Mart and Cortaro shall each be responsible for one-half (1/2) of the amount in excess of \$425,000.00. If the purchase price for the Substitute Property and the Moving Costs are in excess of \$500,000.00, One Mart shall be responsible for the first (1<sup>st</sup>) \$425,000.00 of the purchase price, Cortaro and One Mart shall each be responsible for one-half (1/2) of the next \$75,000.00 of the purchase price, and Cortaro shall be responsible for any amount in excess of \$500,000.00. If Cortaro and One Mart are prevented from removing the KEVT Equipment located on the Tucson Property for any reason, including without limitation the assertion of a lien on the KEVT Equipment by the landlord of the Tucson Property, Cortaro at its sole cost and expense shall purchase and install substitute equipment of like kind and quality subject to One Mart's approval which shall be given or withheld in One Mart's sole and absolute discretion. The Closing for the acquisition of the Substitute Property shall occur concurrently with the Closing hereunder. If One Mart is unsuccessful in acquiring a Substitute Property, upon terms and conditions satisfactory to One Mart in its sole and absolute discretion, the exchange contemplated hereunder shall not occur and all provisions, except for the provisions requiring Cortaro to pay One Mart \$130,000.00 shall be null and void.

2.4 **FCC Licenses.** The parties agree that the applications for assignment of the respective FCC Licenses shall be filed upon One Mart satisfying the KCKY Debt in full.

### 3. TITLE MATTERS

#### 3.1 Preliminary Title Report.

##### A. Coolidge Property.

(1) Promptly following the opening of escrow, Escrow Agent shall deliver to One Mart and Cortaro a current preliminary title report for issuance of a standard coverage owner's policy of title insurance issued by First American Title Insurance Company ("Title Insurer") on the Coolidge Property (the "Coolidge Report"). The Coolidge Report shall show the status of title to the Coolidge Property as of the date of the Coolidge Report and shall be accompanied by legible copies of all documents referred to in the Coolidge Report.

(2) Cortaro shall have twenty (20) days (the "Cortaro Review Period"), following receipt of the Coolidge Report to approve or disapprove the status of title as shown in the Coolidge Report. If Escrow Agent issues a supplemental or amended title report showing additional exceptions to title (an "Amended Coolidge Report"), Cortaro shall have five (5) days after Cortaro's receipt of an Amended Coolidge Report and a copy of each document referred to in the Amended Coolidge Report in which to give notice of dissatisfaction as to any additional exceptions (a "Supplemental Cortaro Review Period").

(3) If Cortaro is dissatisfied with any exception to title, as shown in the Coolidge Report or any Amended Coolidge Report, then, Cortaro may either cancel the escrow or request that One Mart eliminate the disapproved exceptions. If Cortaro requests that One-Mart eliminate the disapproved exceptions, One Mart shall have twenty (20) days thereafter to: (a) eliminate the disapproved exceptions from the Coolidge Report or any Amended Coolidge Report, (b) obtain title insurance endorsements reasonably satisfactory to Cortaro against such matters, or (c) give Cortaro written notice that One Mart has elected not to cure any such disapproved exception. Thereafter, if One Mart does not eliminate those matters or exceptions or obtain title insurance endorsements, Cortaro's sole and exclusive remedy shall be to cancel this Agreement by giving written notice of cancellation to One Mart and Escrow Agent on or before the Close of Escrow; it being understood and agreed, however, that One Mart shall have no duty whatsoever to eliminate or secure a title endorsement against any such matter or exception, except for monetary liens, other than liens for current taxes and assessments not then due.

(4) If Cortaro does not object to an exception to title as disclosed by the Coolidge Report or any Amended Coolidge Report within the

applicable Cortaro Review Period or Supplemental Cortaro Review Period, such matter shall be deemed to have been approved by Cortaro.

(5) From and after the date hereof, One Mart shall not voluntarily encumber the Coolidge Property so long as the escrow remains open.

B. Tucson Property.

(1) Promptly following the opening of escrow, Escrow Agent shall deliver to One Mart and Cortaro a current preliminary title report for issuance of a standard coverage owner's policy of title insurance issued by First American Title Insurance Company ("Title Insurer") on the Tucson Property (the "Tucson Report"). The Tucson Report shall show the status of title to the Tucson Property as of the date of the Tucson Report and shall be accompanied by legible copies of all documents referred to in the Tucson Report.

(2) One Mart shall have twenty (20) days (the "One Mart Review Period"), following receipt of the Tucson Report to approve or disapprove the status of title as shown in the Tucson Report. If Escrow Agent issues a supplemental or amended title report showing additional exceptions to title (an "Amended Tucson Report"), One Mart shall have five (5) days after One Mart's receipt of the Amended Tucson Report and a copy of each document referred to in the Amended Report in which to give notice of dissatisfaction as to any additional exceptions (a "Supplemental One Mart Review Period").

(3) If One Mart is dissatisfied with any exception to title as shown in the Tucson Report or any Amended Tucson Report, then, One Mart may either cancel the escrow or request that Cortaro eliminate the disapproved exceptions. If One Mart requests that Cortaro eliminate the disapproved exceptions, Cortaro shall have twenty (20) days thereafter to: (a) eliminate the disapproved exceptions from the Tucson Report or any Amended Tucson Report, (b) obtain title insurance endorsements reasonably satisfactory to One Mart against such matters, or (3) give One Mart written notice that Cortaro has elected not to cure any such disapproved exception. If Cortaro does not eliminate those matters or exceptions or obtain title insurance endorsements on or before twenty (20) days thereafter, One Mart's sole and exclusive remedy shall be to cancel this Agreement by giving written notice of cancellation to Cortaro and Escrow Agent on or before the Close of Escrow. The foregoing obligations of Cortaro may be satisfied in connection with One Mart's acquisition of the Tucson Property.

(4) If One Mart does not object to an exception to title as disclosed by the Tucson Report or any Amended Tucson Report within the

applicable One Mart Review Period or Supplemental One Mart Review Period, such matter shall be deemed to have been approved by One Mart.

(5) From and after the date hereof, Cortaro shall not voluntarily encumber its lessee's interest in the Tucson Property so long as the escrow remains open.

### 3.2 Title Policies.

#### A. Coolidge Property.

(1) At the Close of Escrow, One Mart shall provide Cortaro with a standard coverage owner's policy of title insurance issued by Title Insurer in an amount to be determined by the parties, effective as of the Close of Escrow, insuring Cortaro that marketable fee simple title to the Coolidge Property is vested in Cortaro, subject only to the usual printed exceptions and exclusions contained in such standard coverage owners' title insurance policies, to the matters approved by Cortaro as provided in Section 3.1 of this Agreement, and to any other matters approved in writing by Cortaro, and with any endorsements reasonably requested by Cortaro (the "Coolidge Title Policy").

(2) The obligation of One Mart to provide the Coolidge Title Policy shall be satisfied if, at the Close of Escrow, Escrow Agent, as issuing agent for Title Insurer, has issued a binding commitment to issue the Coolidge Title Policy in the form required by this Section and if the Coolidge Title Policy is delivered within a reasonable time following the Close of Escrow.

#### B. Tucson Property.

(1) At the close of escrow for One Mart's acquisition of the Tucson Property, if not provided by the Seller of the Tucson Property, Cortaro shall provide One Mart with a standard coverage owner's policy of title insurance issued by Title Insurer in the full amount of the purchase price for the Tucson Property, effective as of the Close of Escrow, insuring One Mart that title to the Tucson Property is vested in One Mart, subject only to the usual printed exceptions and exclusions contained in such standard coverage owners' title insurance policies, to the matters approved by One Mart as provided in Section 3.2 of this Agreement, and to any other matters approved in writing by One Mart, and with any endorsements reasonably requested by One Mart (the "Tucson Title Policy").

(2) The obligation of Cortaro to provide the Tucson Title Policy shall be satisfied if, at the close of escrow for One Mart's acquisition of the Tucson Property, Escrow Agent, as issuing agent for Title Insurer, has issued a

binding commitment to issue the Tucson Title Policy in the form required by this Section and if the Tucson Title Policy is delivered within a reasonable time following such close of escrow.

#### **4. ESCROW; CLOSING; AND PRORATIONS**

**4.1 Escrow.** An escrow for this transaction shall be established with Escrow Agent, and Escrow Agent is hereby employed to handle the escrow. This Agreement constitutes escrow instructions to the Escrow Agent and a copy shall be deposited with Escrow Agent for this purpose. Should Escrow Agent require the execution of its standard form printed escrow instructions, One Mart and Cortaro agree to execute same but revised as Cortaro, One Mart and Escrow Agent may reasonably agree; however, such printed escrow instructions shall be construed as applying only to Escrow Agent's employment, and if there are conflicts between the terms of this Agreement and the terms of the printed escrow instructions, the terms of this Agreement shall control.

#### **4.2 Opening and Closing Dates.**

**A.** Escrow shall be deemed open on the date (the "Opening Date") when three (3) executed originals of this Agreement have been delivered to Escrow Agent. Escrow Agent shall advise One Mart and Cortaro in writing of the Opening Date and shall immediately distribute a fully-executed original of this Agreement to each of One Mart and Cortaro.

**B.** The closing of this transaction and escrow (referred to in this Agreement as the "Closing" or the "Close of Escrow") shall occur on or before 5:00 p.m. (Phoenix time) one (1) year after the Opening Date. Notwithstanding the foregoing: (a) in the event that the term of this Agreement is extended in accordance with Section 2.2 above, the Closing shall concurrently be extended; and (b) in the event the FCC has not issued Final Prior Approval (as defined below) but the applications remain pending before the FCC, provided the FCC has not set the applications for evidentiary hearing or provided the applications have not been pending without Final Prior Approval for seven (7) months, the Closing shall be extended for four (4) months.

**4.3 Contingencies.** The Closing shall be contingent upon the occurrence of the following:

**A.** The acquisition of the Tucson Property or Substitute Property by One Mart through an escrow with Escrow Agent which shall close concurrently with the Closing;

B. The Final Prior Approval by the FCC of the assignment of the KCKY Licenses from One Mart to Cortaro and the Final Prior Approval by the FCC of the assignment of the KEVT Licenses from Cortaro to One Mart; "Final Prior Approval" shall mean beyond all administrative or judicial reconsideration or review;

C. The approval by each party of the status of title to such property in accordance with Section 3.1 hereof;

D. The approval by each party of the environmental condition of each property in accordance with Section 5.2 hereof;

E. The approval by each party of the status of title and condition of all personal property, the KCKY Equipment and the KEVT Equipment to be transferred at Closing; and

F. The assignment of the KCKY Lease to Cortaro;

G. All representations of Cortaro and One Mart in this Agreement shall be true and complete in all material respects at and as of the Closing, except for changes contemplated by this Agreement, as though such representations and warranties were made at and as of such time;

H. Cortaro and One Mart shall have in all material respects performed and complied with all covenants, agreements, and conditions required by this Agreement to be performed or complied with by them prior to or on the Closing;

I. Each of the consents required to consummate this Agreement shall have been duly obtained and delivered with no adverse change to the terms of all licenses and permits required for operations of KEVT or KCKY with respect to which such consent is obtained; and

J. One Mart or Cortaro, as applicable, shall each be the holder of the KCKY Licenses and all other licenses and permits necessary for the operation of KCKY and the KEVT Licenses and all other licenses and permits necessary for the operation of KEVT, and there shall not have been any modification of any of such licenses and permits which has an adverse effect on KCKY or KEVT, respectively, or the conduct of their business or operations. No proceeding shall be pending the effect of which would be to revoke, cancel, fail to renew, suspend or modify adversely any of the licenses. From the date of this Agreement through Closing, KEVT and KCKY shall have operated in accordance with their FCC Licenses, and all applicable rules, regulations and policies of the FCC.

K. Cortaro has a judgment dated October 3, 1996 against it in the favor of Vincent Pepper, Robert F. Corazzini, Peter Gutman and John F. Garziglia, dba Pepper, Corazzini, L.L.P. (the "1996 Judgment"). The 1996 Judgment was domesticated in Arizona on or about March 4, 1998 in Maricopa County, Arizona Superior Court at CV No. 98-04126. A Collateral Assignment of certain of Cortaro's rights related to its FCC Licenses is of record with the Pima County Recorder's Office at Document No. 8991-1240 (the "Collateral Assignment"). The President of Cortaro Moises C. Herrera and his wife, Yolanda V. Herrera, have a judgment against them in the favor of Red Eagle Enterprises, Incorporated, entered in Maricopa County, Arizona Superior Court, Case No. 94-02895 (the "1994 Judgment"). On or before the Closing or at the same time as the KCKY Debt is paid in full, the 1996 Judgment, the Collateral Assignment and the 1994 Judgment must be satisfied in full and released as of record

**4.4 Escrow Cancellation Charges.** If the escrow fails to close because of Cortaro's default, Cortaro shall be liable for all customary escrow cancellation charges. If the escrow fails to close because of One Mart's default, One Mart shall be liable for all customary escrow cancellation charges. If the escrow fails to close for any other reason, Cortaro and One Mart shall each be liable for one-half (1/2) of all customary escrow cancellation charges.

**4.5 Closing Costs.**

A. Upon the Close of Escrow, Cortaro agrees to pay one-half (1/2) of the escrow charges, one-half (1/2) of all recording costs, the cost of the Tucson Title Policy and the cost of any endorsements to the Tucson Title Policy insuring against any title exceptions disapproved by One Mart which Cortaro has agreed to provide pursuant to Section 3.2 of this Agreement.

B. Upon the Close of Escrow, One Mart agrees to pay one-half (1/2) of the escrow charges, one-half (1/2) of all recording costs, the cost of the Coolidge Title Policy and the cost of any endorsements to the Coolidge Title Policy insuring against title exceptions disapproved by Cortaro, which One Mart has agreed to provide pursuant to Section 3.2 of this Agreement.

C. Real estate taxes and assessments for the year 2000 shall be prorated based on the latest available information.

D. Rent shall be prorated as of the Closing.

E. Any other closing costs shall be paid by One Mart and Cortaro according to the usual and customary practice in Maricopa County, Arizona, of Escrow Agent.

F. On or before the Close of Escrow, each party agrees to deposit with Escrow Agent, funds in an amount sufficient to pay all closing costs payable by such party.

4.6 **Recording and Filing of Documents.** At the Closing, the deed and an affidavit of value for the Coolidge Property shall be recorded by Escrow Agent in the Pinal County Recorder's office and the deed and an affidavit of value for the Tucson Property shall be recorded by Escrow Agent in the Pima County Recorder's office.

4.7 **Form 1099-B.** Escrow Agent is hereby authorized and instructed to file with the U.S. Internal Revenue Service Form 1099-B, Proceeds From Real Estate, Broker, and Barter Exchange Transactions, if required by Section 6045(e) of the Internal Revenue Code of 1986, as amended.

## 5. MATTERS RELATING TO THE ESCROW PERIOD

5.1 **Time Brokerage Agreement.** Concurrently with the execution of this Agreement, One Mart and Cortaro shall enter into a Time Brokerage Agreement with respect to the KCKY Assets, pursuant to which Cortaro shall have the right to supply substantially all the programming to be broadcast over KCKY for a one (1) year period commencing upon the date hereof. The form of such Time Brokerage Agreement shall be in the form of *Exhibit E*, attached hereto and incorporated herein by this reference (the "KCKY TBA"). Concurrently with the execution of this Agreement, Cortaro and One Mart shall enter into a Time Brokerage Agreement with respect to the KEVT Assets, pursuant to which One Mart shall have the right to supply substantially all the programming to be broadcast over KEVT for a one (1) year period commencing upon the date hereof. The form of such Time Brokerage Agreement shall be in the form of *Exhibit F*, attached hereto and incorporated herein by this reference (the "KEVT TBA"). Cortaro and One Mart agree that if the Closing is extended as provided at 4.2.B, the KCKY TBA and KEVT TBA shall be extended to run concurrently through the period until the Closing.

5.2 **Environmental Matters.** During the Escrow, either party (at its sole cost and expense) shall be entitled to obtain a Phase I Environmental Report or other environmental reports covering the property to be acquired by such party. The approval of such report by the respective party in the party's sole and absolute discretion shall be a condition of the closing of the Escrow.

5.3 **Condemnation.** In the event of the condemnation (or sale in lieu thereof) or threat of condemnation, of any of the property prior to the Close of Escrow, the party acquiring such property shall receive all awards or payments made

therefor by the condemning authority to which the conveying party is entitled and shall proceed to Close the Escrow.

#### **5.4 Risk of Loss.**

A. The risk of loss or damage to the KCKY Assets until the Close of Escrow shall be borne by One Mart. In the event of any such loss, Cortaro shall receive all insurance proceeds to which One Mart is entitled and shall proceed to close the escrow.

B. The risk of loss or damage to the KEVT Assets until the Close of Escrow shall be borne by Cortaro. In the event of any such loss, One Mart shall receive all insurance proceeds to which Cortaro is entitled and shall proceed to close the escrow.

### **6. REPRESENTATIONS AND WARRANTIES**

#### **6.1 Representations and Warranties.**

A. One Mart hereby represents and warrants to Cortaro as follows:

(1) To the best of One Mart's knowledge, there is no litigation pending or threatened, nor any condemnation proceeding threatened or pending, against the Coolidge Property or against One Mart with respect to KCKY or the KCKY Assets.

(2) No work has been performed or is in progress at the KCKY Assets and no materials have been furnished to the KCKY Assets which might give rise to mechanic's, materialmen's or other liens against any part of the KCKY Assets.

(3) One Mart is not prohibited by any other agreement or by any applicable law to enter into or perform its obligations under this Agreement. One Mart has the necessary power to enter into and perform this Agreement.

(4) There are no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships, or voluntary or involuntary proceedings in bankruptcy or pursuant to any other laws for relief of debtors contemplated or filed by One Mart or pending against One Mart or affecting or involving the KCKY Assets or KCKY.

(5) There are no contracts or other obligations entered into by One Mart and outstanding for the sale, exchange or transfer of all or any part of the KCKY Assets.

(6) One Mart has no actual knowledge that it has ever caused or permitted any hazardous materials to be placed, held, located or disposed of on, under or at the Coolidge Property or any part thereof, or from the Coolidge Property or any part thereof into the atmosphere or any water, body of water or wetlands at any level which is in violation of any applicable environmental laws, and neither the Coolidge Property nor any part thereof has ever been used, whether by One Mart, or, to the best of One Mart's knowledge, by any other person as a treatment, storage or disposal site for any hazardous materials. For purposes of this Agreement, hazardous material means and includes any petroleum product and any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response Compensation and Liability Act, any so called super fund or super lien law, the Toxic Substances Control Act, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material as now or at any time hereafter in effect and asbestos or any substance or compound containing asbestos, PCB's or any other hazardous, toxic or dangerous waste, substance or material. During the term of its ownership, One Mart has not installed or caused to be installed any underground storage tanks.

(7) One Mart owns and has good title to the KCKY Assets. The KCKY Assets are free and clear of liens, security interests and encumbrances, except for liens for current taxes not yet due and payable.

(8) One Mart is a corporation duly organized and validly existing under the laws of the State of Arizona, and qualified to conduct business in the State of Arizona, which is the only jurisdiction where the conduct of the business or operations of KCKY requires such qualification. One Mart has all requisite corporate power and authority (i) to own, lease, and use the KCKY Assets as presently owned, leased, and used, (ii) to conduct the business or operations of KCKY as presently conducted, and (iii) to execute and deliver this Agreement and the documents contemplated hereby, and to perform and comply with all of the terms, covenants and conditions to be performed and complied with by One Mart hereunder and thereunder. One Mart is not a participant in any joint venture or partnership with any other person or entity with respect to any part of KCKY's operations or the KCKY Assets.

(9) The execution, delivery, and performance of this Agreement by One Mart has been duly authorized by all necessary corporate action

on the part of One Mart. This Agreement has been duly executed and delivered by One Mart and constitutes the legal, valid, and binding obligation of One Mart, enforceable against it in accordance with its terms except as the enforceability hereof may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally, or by court-applied equitable remedies.

(10) One Mart has delivered to Cortaro true and complete copies of all licenses and permits necessary for the operation of KCKY (including any and all amendments and other modifications thereto). One Mart is the authorized legal holder of all such licenses and permits, which, to the best of One Mart's knowledge, were validly issued. All such licenses and permits, including, without limitation the KCKY Licenses comprise all of the licenses, permits and other authorizations required from any governmental or regulatory authority for the lawful conduct of the business or operations of KCKY in accordance therewith. One Mart has no reason to believe that the licenses will not be renewed by the FCC or other granting authority in the ordinary course.

(11) All towers, ground systems, guy anchors, and buildings and other improvements included in the KCKY Assets are located entirely on the Coolidge Property. One Mart has delivered to Cortaro true and complete copies of all leases or other instruments to which One Mart is a party pertaining to the Coolidge Property (including any and all amendments and other modifications of such instruments), all of which instruments, to the best of One Mart's knowledge, are valid, binding and enforceable in accordance with their terms and, except as to matters of public record (as to which Cortaro may satisfy itself as a condition to its obligation to close) are free and clear of any claims, liens or encumbrances of any nature. To the best of One Mart's knowledge, the Coolidge Property (including the improvements thereon) (i) is in good condition and repair consistent with its present use, (ii) is available for immediate use in the conduct of the business or operations of KCKY, and (iii) complies with all governmental authority having jurisdiction. KCKY has full legal and practical access to the Coolidge Property.

(12) As of only the date of this Agreement the KCKY Equipment taken as a whole is in good operating condition and repair (ordinary wear and tear excepted), and is available for immediate use in the business or operations of KCKY. KCKY's transmitter and tower individually, and all other items of transmitting and studio equipment included in the KCKY Equipment taken as a whole (i) have been maintained in a manner consistent with generally accepted standards of good engineering practice, and (ii) will permit KCKY and any unit auxiliaries thereto to operate in accordance with the terms of the KCKY Licenses and the rules and regulations of the FCC, and with all other applicable federal, state and local statutes, ordinances, rules and regulations of material import.

(13) Except for the FCC Final Prior Approval provided for above, any consents which may be required in connection with the KCKY Debt and the other consents provided for above, no consent, approval, permit or authorization of, or declaration to or filing with any governmental or regulatory authority, or any other third party is required (i) to consummate this Agreement and the transaction contemplated hereby, (ii) to permit One Mart to assign or transfer the KCKY Assets to Cortaro, or (iii) to enable One Mart to conduct the business or operations of KCKY in essentially the same manner as such business or operations are presently conducted, assuming Cortaro presents no special circumstances distinguishing it from One Mart.

(14) All of the tangible property included in the KCKY Assets is insured against loss or damage in amounts generally customary in the broadcast industry. All policies of insurance are in full force and effect, and shall be maintained by One Mart until the Closing. In the event a loss covered by such insurance occurs, One Mart shall timely file all insurance claims and shall take all actions necessary including assigning any insurance proceeds to Cortaro so that Cortaro can complete all repairs and replacements of KCKY Equipment which Cortaro is obligated to undertake hereunder at paragraph 12.5.

(15) All returns, reports and statements which KCKY is currently required to file with the FCC or with any other governmental agency have been filed, and all reporting requirements of the FCC and other governmental authorities having jurisdiction thereof have been complied with. All of such reports, returns and statements are substantially complete and correct as filed. KCKY's public inspection file is located at the main studio and is in compliance with the FCC's rules and regulations.

(16) One Mart does not have any employee benefit plans (as defined below) which could give rise to liability under ERISA or the Internal Revenue Code of 1986, as amended, (the "Code") or has any employee benefit plan of any trade or business (whether or not incorporated) which is under common control, or a member of an affiliated service group, with Seller or the Station (within the meaning of Section 401(b)(1) of ERISA or Section 414(b), (c) or (m) of the Code) which could result in a lien or other claim upon any of the KEVT Assets.

One Mart has no employment, severance or similar contract, arrangement or policy, or plan or arrangement providing for insurance coverage (including any self-insured arrangements), workers' compensation, disability benefits, supplemental unemployment benefits, vacation benefits, deferred compensation, bonuses, profit-sharing, stock options, stock appreciation rights, or other forms of incentive compensation or post-retirement compensation or benefit, except worker's compensation and unemployment

compensation required by Arizona law and as to such worker's compensation and unemployment compensation, One Mart is in full compliance with such law.

Plans that are group health plans (as defined for purposes of Section 4980B of the Code and Part 6 of Subtitle B Title I of ERISA) have complied at all times, and will continue to comply through the Closing Date, with the requirements of Section 4980B of the Code and Part 6 of Subtitle B of Title I of ERISA, and all regulations thereunder. One Mart and/or its agents who administer any Plan that is a group health plan have complied at all times, and will continue to comply, with the notification and written notice requirements of Section 4980B of the Code and Section 606 of ERISA.

(17) One Mart is not a party to or subject to any collective bargaining agreements with respect to KCKY. One Mart has no written or oral contracts of employment with any employee of KCKY. One Mart, in the operation of KCKY, has complied with all applicable laws, rules and regulations relating to the employment of labor, including those related to wages, hours, collective bargaining, occupational safety, discrimination, and the payment of social security and other payroll related taxes, and it has not received any notice alleging that it has failed to comply in any material respect with any such laws, rules or regulations. No controversies, disputes, or proceedings are pending or, to the best of its knowledge, threatened, between it and employees (singly or collectively) of KCKY. No labor union or other collective bargaining unit represents any of the employees of KCKY. To the best knowledge of One Mart, there is no union campaign being conducted to solicit cards from employees to authorize a union to request a National Labor Relations Board certification election with respect to any of One Mart's employees at KCKY.

(18) One Mart has filed or caused to be filed all federal income tax returns and all other federal, state, county, local or city tax returns which are required to be filed, and it has paid or caused to be paid all taxes shown on said returns or on any tax assessment received by it to the extent that such taxes have become due. No events have occurred which could impose on One Mart any transferee liability for any taxes, penalties, or interest due or to become due from One Mart.

(19) Except for any investigation and rule-making proceedings generally affecting the broadcasting industry, there is no claim, legal action, counterclaim, suit, arbitration, governmental investigation or other legal, administrative or tax proceedings as to which One Mart has been served or given notice, nor any order, decree or judgment, in progress nor to the knowledge of One Mart, pending, or is any material claim, action or proceeding threatened, against or relating to One Mart, the KCKY Assets, or the business or operations of KCKY, nor

does One Mart know or have reason to be aware of any basis for the same. In particular, but without limiting the generality of the foregoing, there are no applications, complaints or proceedings pending or, to the best of its knowledge, threatened (i) before the FCC relating to the business or operations of KCKY other than applications, complaints or proceedings which affect the radio industry generally, (ii) before any federal or state agency involving charge of illegal discrimination under any federal or state employment laws or regulations, or (iii) before any federal, state or local agency involving environmental or zoning laws or regulations.

(20) One Mart has complied with all applicable federal, state and local laws, rules, regulations and ordinances affecting the KCKY Assets or operations of KCKY. To the best of One Mart's knowledge, neither the ownership or use of its properties nor the conduct of the business or operations of KCKY conflicts in any material way with the rights of any other person, firm or corporation.

(21) One Mart has and will have conducted the business and operations of KCKY only in the ordinary course and has not made any sale, assignment, lease or other transfer of any of One Mart's properties other than in the normal and usual course of business with suitable replacements being obtained therefor.

(22) No representation or warranty made by One Mart herein nor any certificate, document or other instrument furnished or to be furnished by One Mart pursuant hereto contains or will contain any untrue statement of a material fact, or omits or will omit to state any material fact known to One Mart and required to make the statements herein or therein not misleading.

B. Cortaro hereby represents and warrants to One Mart as follows:

(1) To the best of Cortaro's knowledge, there is no litigation pending or threatened, nor any condemnation proceeding threatened or pending, against the Tucson Property or against Cortaro with respect to the KEVT Assets or KEVT.

(2) No work has been performed or is in progress at the KEVT Assets and no materials have been furnished to the KEVT Assets which might give rise to mechanic's, materialmen's or other liens against any part of the KEVT Assets.

(3) Cortaro is not prohibited by any other agreement or by any applicable law to enter into or perform its obligations under this Agreement. Cortaro has the necessary power to enter into and perform this Agreement.

(4) Except as set forth in Paragraph 4.3.K above, there are no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships, or voluntary or involuntary proceedings in bankruptcy or pursuant to any other laws for relief of debtors contemplated or filed by or pending against Cortaro or affecting or involving the KEVT Assets or KEVT.

(5) Except as set forth in Paragraph 4.3.K above, there are no contracts or other obligations entered into by Cortaro and outstanding for the sale, exchange or transfer of all or any part of the KEVT Assets or KEVT.

(6) Cortaro has no actual knowledge that it has ever caused or permitted any hazardous materials to be placed, held, located or disposed of on, under or at the Tucson Property or any part thereof, or from the Tucson Property or any part thereof into the atmosphere or any water, body of water or wetlands at any level which is in violation of any applicable environmental laws, and neither the Tucson Property nor any part thereof has ever been used, whether by Cortaro, or, to the best of Cortaro's knowledge, by any other person as a treatment, storage or disposal site for any hazardous materials. For purposes of this Agreement, hazardous material means and includes any petroleum product and any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response Compensation and Liability Act, any so called super fund or super lien law, the Toxic Substances Control Act, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material as now or at any time hereafter in effect and asbestos or any substance or compound containing asbestos, PCB's or any other hazardous, toxic or dangerous waste, substance or material. During the term of its ownership, Cortaro has not installed or caused to be installed any underground storage tanks.

(7) Cortaro owns and has good title to the KEVT Assets. Except as set forth in Paragraph 4.3.K above, the KEVT Assets are free and clear of liens, security interests and encumbrances, except for liens for current taxes not yet due and payable.

(8) Cortaro is a corporation duly organized and validly existing under the laws of the State of Arizona, and qualified to conduct business in the States of Arizona, which is the only jurisdiction where the conduct of the business or operations of the Station requires such qualification. Cortaro has

all requisite corporate power and authority (i) to own, lease, and use the KEVT Assets as presently owned, leased, and used, (ii) to conduct the business or operations of KEVT as presently conducted, and (iii) to execute and deliver this Agreement and the documents contemplated hereby, and to perform and comply with all of the terms, covenants and conditions to be performed and complied with by Cortaro hereunder and thereunder. Cortaro is not a participant in any joint venture or partnership with any other person or entity with respect to any part of the KEVT's operations or the KEVT Assets.

(9) The execution, delivery, and performance of this Agreement by Cortaro have been duly authorized by all necessary corporate action on the part of Cortaro. This Agreement has been duly executed and delivered by Cortaro and constitutes the legal, valid, and binding obligation of Cortaro, enforceable against it in accordance with its terms except as the enforceability hereof may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally, or by court-applied equitable remedies.

(10) Cortaro has delivered to One Mart true and complete copies of all licenses and permits necessary for the operation of KEVT (including any and all amendments and other modifications thereto). Cortaro is the authorized legal holder of all such licenses and permits, which, to the best of Cortaro's knowledge, were validly issued. All such licenses and permits, including, without limitation the KEVT Licenses comprise all of the licenses, permits and other authorizations required from any governmental or regulatory authority for the lawful conduct of the business or operations of KEVT in accordance therewith. Cortaro has no reason to believe that the licenses will not be renewed by the FCC or other granting authority in the ordinary course. Cortaro is and will remain basically qualified to be an FCC licensee.

(11) All towers, ground systems, guy anchors, and buildings and other improvements included in the KEVT Assets are located entirely on the Tucson Property. Cortaro has delivered to One Mart true and complete copies of all leases or other instruments to which Cortaro is a party pertaining to the Tucson Property (including any and all amendments and other modifications of such instruments), all of which instruments, to the best of Cortaro's knowledge, are valid, binding and enforceable in accordance with their terms and, except as to matters of public record (as to which One Mart may satisfy itself as a condition to its obligation to close) are free and clear of any claims, liens or encumbrances of any nature. To the best of Cortaro's knowledge, the Tucson Property (including the improvements thereon) (i) is in good condition and repair consistent with its present use, (ii) is available for immediate use in the conduct of the business or operations of KEVT, and (iii) complies with all governmental authority having jurisdiction. KEVT has full legal and practical access to the Tucson Property.

(12) As of only the date of this Agreement the KEVT Equipment taken as a whole is in good operating condition and repair (ordinary wear and tear excepted), and is available for immediate use in the business or operations of KEVT. KEVT's transmitter and tower individually, and all other items of transmitting and studio equipment included in the KEVT Equipment taken as a whole (i) have been maintained in a manner consistent with generally accepted standards of good engineering practice, and (ii) will permit KEVT and any unit auxiliaries thereto to operate in accordance with the terms of the KEVT Licenses and the rules and regulations of the FCC, and with all other applicable federal, state and local statutes, ordinances, rules and regulations of material import. KEVT is and has been from the date of this Agreement through Closing, operating in accordance with its FCC Licenses, and all applicable rules, regulations and policies of the FCC.

(13) Except for the FCC Final Prior Approval provided for above and the other consents or releases provided for above, no consent, approval, permit or authorization of, or declaration to or filing with any governmental or regulatory authority, or any other third party is required (i) to consummate this Agreement and the transaction contemplated hereby, (ii) to permit Cortaro to assign or transfer the KEVT Assets to One Mart, or (iii) to enable One Mart to conduct the business or operations of KEVT in essentially the same manner as such business or operations are presently conducted, assuming One Mart presents no special circumstances distinguishing it from Cortaro.

(14) All of the tangible property included in the KEVT Assets is insured against loss or damage in amounts generally customary in the broadcast industry. All policies of insurance are in full force and effect, and shall be maintained by Cortaro until the Closing. In the event a loss covered by such insurance occurs, Cortaro shall timely file all insurance claims and shall take all actions necessary including assigning any insurance proceeds to One Mart so that One Mart can complete all repairs and replacements of KEVT Equipment which One Mart is obligated to undertake hereunder at paragraph 12.5.

(15) All returns, reports, tower registrations, and statements which KEVT is currently required to file with the FCC or with any other governmental agency have been filed, and all reporting requirements of the FCC and other governmental authorities having jurisdiction thereof have been complied with. All of such reports, returns and statements are substantially complete and correct as filed. KEVT's public inspection file is located at the main studio and is in compliance with the FCC's rules and regulations.

(16) Cortaro does not have any employee benefit plans (as defined below) which could give rise to liability under ERISA or the Internal Revenue Code of 1986, as amended, (the "Code") or has any employee benefit plan of any trade or business (whether or not incorporated) which is under common control, or a member of an affiliated service group, with Seller or the Station (within the meaning of Section 401(b)(1) of ERISA or Section 414(b), (c) or (m) of the Code) which could result in a lien or other claim upon any of the KEVT Assets.

Cortaro has no employment, severance or similar contract, arrangement or policy, or plan or arrangement providing for insurance coverage (including any self-insured arrangements), workers' compensation, disability benefits, supplemental unemployment benefits, vacation benefits, deferred compensation, bonuses, profit-sharing, stock options, stock appreciation rights, or other forms of incentive compensation or post-retirement compensation or benefit, except worker's compensation and unemployment compensation required by Arizona law and as to such worker's compensation and unemployment compensation, Cortaro is in full compliance with such law.

Plans that are group health plans (as defined for purposes of Section 4980B of the Code and Part 6 of Subtitle B Title I of ERISA) have complied at all times, and will continue to comply through the Closing Date, with the requirements of Section 4980B of the Code and Part 6 of Subtitle B of Title I of ERISA, and all regulations thereunder. Cortaro and/or its agents who administer any Plan that is a group health plan have complied at all times, and will continue to comply, with the notification and written notice requirements of Section 4980B of the Code and Section 606 of ERISA.

(17) Cortaro is not a party to or subject to any collective bargaining agreements with respect to KEVT. Cortaro has no written or oral contracts of employment with any employee of KEVT. Cortaro, in the operation of KEVT, has complied with all applicable laws, rules and regulations relating to the employment of labor, including those related to wages, hours, collective bargaining, occupational safety, discrimination, and the payment of social security and other payroll related taxes, and it has not received any notice alleging that it has failed to comply in any material respect with any such laws, rules or regulations. No controversies, disputes, or proceedings are pending or, to the best of its knowledge, threatened, between it and employees (singly or collectively) of KEVT. No labor union or other collective bargaining unit represents any of the employees of KEVT. To the best knowledge of Cortaro, there is no union campaign being conducted to solicit cards from employees to authorize a union to request a National Labor Relations Board certification election with respect to any of Cortaro's employees at KEVT.

(18) Cortaro has filed or caused to be filed all federal income tax returns and all other federal, state, county, local or city tax returns which are required to be filed, and it has paid or caused to be paid all taxes shown on said returns or on any tax assessment received by it to the extent that such taxes have become due. No events have occurred which could impose on One Mart any transferee liability for any taxes, penalties, or interest due or to become due from Cortaro. Cortaro has timely paid all franchise fees and FCC Regulatory Fees that have become due as of the date of execution of this Agreement, and Cortaro shall have paid all franchise fees and FCC Regulatory Fees that will have become due between the date of execution of this Agreement and the Closing Date.

(19) Except for any investigation and rule-making proceedings generally affecting the broadcasting industry, there is no claim, legal action, counterclaim, suit, arbitration, governmental investigation or other legal, administrative or tax proceedings as to which Cortaro has been served or given notice, nor any order, decree or judgment, in progress nor to the knowledge of Cortaro, pending, or is any material claim, action or proceeding threatened, against or relating to Cortaro, the KEVT Assets, or the business or operations of KEVT, nor does Cortaro know or have reason to be aware of any basis for the same. In particular, but without limiting the generality of the foregoing, there are no applications, complaints or proceedings pending or, to the best of its knowledge, threatened (i) before the FCC relating to the business or operations of KEVT other than applications, complaints or proceedings which affect the radio industry generally, (ii) before any federal or state agency involving charge of illegal discrimination under any federal or state employment laws or regulations, or (iii) before any federal, state or local agency involving environmental or zoning laws or regulations.

(20) Cortaro has complied with all applicable federal, state and local laws, rules, regulations and ordinances affecting the KEVT Assets or operations of KEVT. To the best of Cortaro's knowledge, neither the ownership or use of its properties nor the conduct of the business or operations of KEVT conflicts in any material way with the rights of any other person, firm or corporation.

(21) Cortaro has and will have conducted the business and operations of KEVT only in the ordinary course and has not made any sale, assignment, lease or other transfer of any of Cortaro's properties other than in the normal and usual course of business with suitable replacements being obtained therefor.

(22) No representation or warranty made by Cortaro herein nor any certificate, document or other instrument furnished or to be furnished by Cortaro pursuant hereto contains or will contain any untrue statement of a material fact, or omits or will omit to state any material fact known to Cortaro and required to make the statements herein or therein not misleading.

C. The foregoing representations and warranties shall survive the Close of Escrow for a period of two (2) years.

## 7. BROKERAGE

7.1 **Brokerage.** One Mart and Cortaro hereby acknowledge and agree that they have jointly utilized the services of William Freeman ("Freeman") in connection with this Agreement. One Mart and Cortaro agree to pay to Freeman a consulting fee in accordance with the terms and conditions set forth in that separate Consulting Agreement which will be attached hereto on or before sixty (60) days prior to Closing as *Exhibit G* and incorporated herein by this reference. One Mart warrants that One Mart has not dealt with any other broker in connection with this transaction and Cortaro warrants that Cortaro has not dealt with any other broker in connection with this transaction. If any other person shall assert a claim to a finder's fee, brokerage commission or other compensation on account of alleged employment as a finder or broker or performance of services as a finder or broker in connection with this transaction, the party under whom the finder or broker is claiming shall indemnify and hold the other party harmless for, from and against any such claim and all costs, expenses and liabilities incurred in connection with such claim, or any action or proceeding brought on such claim, including, but not limited to, counsel and witness fees and court costs in defending against such claim. This indemnity shall survive the Close of Escrow or the cancellation of this Agreement.

## 8. CLOSING DOCUMENTS

8.1 **KCKY's Closing Documents.** On or before the Close of Escrow, One Mart shall deposit into escrow the following documents for delivery to Cortaro at the Close of Escrow, each of which shall have been duly executed and, where appropriate, acknowledged:

- A. The deed for the Coolidge Property;
- B. An affidavit of property value as required by law;
- C. An Assignment and Assumption of Lease with respect to the KCKY Lease;

- D. A Bill of Sale with respect to the KCKY Equipment;
- E. Such documents as may be necessary to assign the KCKY Licenses;
- F. A Certificate signed and acknowledged by One Mart under penalty of perjury, certifying the following:
  - (1) One Mart's U.S. tax payer identification number;
  - (2) The business address of One Mart; and
  - (3) That One Mart is not a non-resident alien, foreign corporation, foreign partnership, foreign trust, foreign estate, or other foreign person within the meaning of Sections 1445 and 7701 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder; and
- G. Such other documents as may be necessary or appropriate to transfer and convey all of the KCKY Assets to Cortaro and to otherwise consummate this transaction in accordance with the terms of this Agreement.

**8.2 KEVT's Closing Documents.** On or before the Close of Escrow, Cortaro shall deposit into escrow the following documents for delivery to One Mart at the Close of Escrow, each of which shall have been duly executed and, where appropriate, acknowledged:

- A. A Bill of Sale with respect to the KEVT Equipment;
- B. Such documents as may be necessary to assign the KEVT Licenses to One Mart; and
- C. Such other documents as may be necessary or appropriate to transfer and convey all of the KEVT Assets to One Mart and to consummate this transaction in accordance with the terms of this Agreement.

## **9. REMEDIES AND DEFAULT**

**9.1 Cortaro's Remedies for One Mart's Default.** If One Mart fails to perform when due any act required by this Agreement to be performed by One Mart, then, provided Cortaro has given One Mart at least five (5) days prior written notice of such failure and an opportunity to cure such failure, in addition to whatever other remedies are available to Cortaro at law or in equity, including the right to have specific performance of this Agreement, Cortaro may cancel this Agreement and the

escrow, such cancellation to be effective immediately upon Cortaro giving written notice of cancellation to One Mart and Escrow Agent.

**9.2 One Mart's Remedies for Cortaro's Default.** If Cortaro fails to perform when due any act required by this Agreement to be performed by Cortaro, then, provided One Mart has given Cortaro at least five (5) days prior written notice of such failure and an opportunity to cure such failure, in addition to whatever other remedies are available to One Mart at law or in equity, including the right to have specific performance of this Agreement, One Mart may cancel this Agreement and the escrow, such cancellation to be effective immediately upon One Mart giving written notice of cancellation to Cortaro and Escrow Agent.

**9.3 Cross-Default.** If not cured in the manner such document allows, a breach by either party of a material obligation under either or both of the related Time Brokerage Agreements (*Exhibits E and F*) will constitute a breach under this Agreement entitling either party to exercise the party's rights and remedies pursuant to paragraphs 9.1 or 9.2. In the case of a breach by Cortaro under the applicable Time Brokerage Agreement, such breach shall also result in the entire balance of the \$130,000.00 payable pursuant to paragraph 2.1 above being immediately due and payable entitling One Mart to exercise all its rights and remedies.

## 10. GENERAL PROVISIONS

**10.1 Assignment.** Neither party may assign or otherwise transfer its rights under this Agreement without the prior written consent of the other party, which consent may be given or withheld in the other party's sole and absolute discretion. Notwithstanding the foregoing, One Mart shall have the right prior to the Closing to convey the KCKY Assets, and to assign its rights under this Agreement, to Megaza Spanish Radio Network, Inc., or any other entity affiliated with One Mart, so long as One Mart notifies Cortaro in writing of any such permitted assignment at least seven (7) days prior to the Closing.

**10.2 Binding Effect.** The provisions of this Agreement are binding upon and shall inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.

**10.3 Attorneys' Fees.** If any action is brought by either party in respect to its rights under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, court costs and expert witness fees, as determined by the court.

**10.4 Waivers.** No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision whether or not similar, nor shall any

waiver be a continuing waiver. Except as expressly provided in this Agreement, no waiver shall be binding unless executed in writing by the party making the waiver. Either party may waive any provision of this Agreement intended for its benefit; provided, however, such waiver shall in no way excuse the other party from the performance of any of its other obligations under this Agreement.

10.5 **Construction.** This Agreement shall be construed according to Arizona law.

10.6 **Time.** Time is of the essence of this Agreement.

10.7 **Notice.**

A. Notices shall be in writing and shall be given by personal or air courier service delivery to a responsible person, by confirmed telephone facsimile, or by deposit in the United States mail, certified mail, return receipt requested, postage prepaid. Notices shall be delivered or addressed to Cortaro and One Mart at the addresses set forth on the first page of this Agreement or at such other address as the party may designate in writing.

Copies of each notice to Cortaro shall also be sent to:

Barry D. Wood, Esq.  
Wood, Maines & Brown, Chartered  
1827 Jefferson Place  
Washington, D.C. 20036  
Telephone: (202) 293-5333  
Facsimile: (202) 293-9611

Copies of each notice to One Mart shall also be sent to:

Joseph W. Kruchek  
Margaret L. Steiner  
Shimmel, Hill, Bishop & Gruender, P.C.  
3700 North 24th Street  
Phoenix, Arizona 85016  
Telephone: 602-381-3920 (Kruchek)  
602-381-3923 (Steiner)  
Facsimile: 602-955-6176

The date notice is deemed to have been given, received and become effective shall be the date on which the notice is delivered if notice is given by personal delivery or by

air courier service delivery or by confirmed telephone facsimile, or three (3) days following the deposit in the mail if notice is sent through the United States Mail.

B. Copies of all notices shall also be given to Escrow Agent. The copies of notices sent in accordance with this Section 10.7.B are informational and are not required in order for the notices given pursuant to Section 10.7.A to be effective. Any failure to send any such copies shall not be deemed a failure to give notice of a default hereunder.

**10.8 Further Documentation.** Each party agrees in good faith to execute such further or additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

**10.9 Time Periods.** Except as expressly provided for herein, the time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 o'clock p.m. (Phoenix time) on the last day of the applicable time period provided for herein. If the time for the performance of any obligation or taking any action under this Agreement expires on a Saturday, Sunday or Federal legal holiday, the time for performance or taking such action shall be extended to the next succeeding day which is not a Saturday, Sunday or Federal legal holiday. As used herein, "business day" shall be deemed to refer to each day that Escrow Agent is open for business.

**10.10 Headings and Counterparts.** The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

**10.11 Entire Agreement.** This Agreement, together with *Exhibits A* through G, inclusive, constitutes the entire agreement between the parties pertaining to the subject matter contained in this Agreement. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written (including, without limitation, that certain letter dated May 14, 1999, executed by Cortaro and One Mart), are superseded by and merged in this Agreement. No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by One Mart and Cortaro.

**10.12 Governing Law; Jurisdiction, Venue; Waiver of Jury Trial.** This Agreement shall be governed by and construed and enforced in accordance with the substantive laws (other than conflict laws) of the State of Arizona. Each party consents to the personal jurisdiction and venue of the state and federal courts located in Maricopa County, Arizona in connection with any controversy related to

this Agreement, waives any argument that venue in any such forum is not convenient and agrees that any litigation initiated by either party may be brought in the Superior Court of Maricopa County, Arizona or the United States District Court for the District of Arizona located in Maricopa County, Arizona. The parties waive any right to trial by jury in any action or proceeding based on or pertaining to this Agreement.

**10.13 Cooperation.** The parties acknowledge that the Agreement is subject to various conditions and contingencies which must be satisfied before the Closing. The parties acknowledge and agree to cooperate with each other to satisfy all conditions and contingencies and to execute and furnish all documents necessary to consummate the transaction contemplated by this Agreement.

**10.14 Cancellation of Agreement.** In addition to the other rights and remedies provided herein, if the FCC designates any application filed with the FCC in furtherance of this Agreement for evidentiary hearing, or if any application remains pending with the FCC for seven (7) months without the FCC's granting such application or applications and such grant or grants resulting in Final Prior Approval, or if Cortaro or One Mart elect to terminate the KCKY TBA or the KEVT TBA, One Mart or Cortaro may cancel this Agreement, the related KCKY TBA and KEVT TBA, and the escrow, such cancellation to be effective immediately upon One Mart or Cortaro giving written notice of cancellation to Cortaro and Escrow Agent.

**10.15 Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, such provision shall be deemed removed from this Agreement, and the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greater extent permitted by law.

## **11. COVENANTS OF CORTARO AND ONE MART**

**11.1 Pre-Closing Covenants.** Except as contemplated by this Agreement or with the prior written consent of Cortaro or One Mart, as applicable, between the date hereof and the Closing Date, Cortaro or One Mart shall operate KEVT or KCKY, as applicable, in the ordinary course of business in accordance with its past practices (except where such would conflict with the following covenants or with Cortaro's or One Mart's other obligations hereunder), and abide by the following negative and affirmative covenants:

**A. Negative Covenants.** Cortaro or One Mart, as applicable, shall not do any of the following without the written consent of Cortaro or One Mart, as applicable, in each instance:

(1) Disposition of Assets. Sell, assign, lease, or otherwise transfer or dispose of any of the KEVT Assets or the KCKY Assets, except for assets consumed or disposed of in the ordinary course of business, where no longer used or useful in the business or operations of KEVT or KCKY or in connection with the acquisition of replacement property of equivalent kind and value;

(2) Encumbrances. As a result of any action or inaction of Cortaro or One Mart, create, assume or permit to exist any claim, liability, mortgage, lien, pledge, condition, charge, or encumbrance of any nature whatsoever upon the KEVT Assets or the KCKY Assets, except for those in existence on the date of this Agreement and mechanics' liens and other similar liens which will be removed prior to the Closing;

(3) Licenses. Do any act or fail to do any act which might result in the expiration, revocation, suspension or modification of any of the KEVT Licenses and all other licenses and permits necessary for KEVT's operations or the KCKY Licenses and all other licenses and permits necessary for KCKY's operations, or fail to prosecute with due diligence any applications to operation of KEVT or KCKY;

(4) Rights. Waive any material right relating to KEVT or KCKY or the KEVT or KCKY Assets; or

(5) No Inconsistent Action. Take any action which is inconsistent with its obligations hereunder or which could hinder or delay the consummation of the transaction contemplated by this Agreement.

**B. Affirmative Covenants.** Cortaro or One Mart, as applicable, shall do the following:

(1) Access to Information. Allow the authorized representatives of the other reasonable access at the other's expense and upon reasonable notice during normal business hours to the KEVT Assets or KCKY Assets and to all other properties, equipment, books, records, contracts and documents relating to KEVT or KCKY for the purpose of audit and inspection, and furnish or cause to be furnished to the other or its authorized representatives all information with respect to the affairs and business of KEVT or KCKY as the other may reasonably request, it being understood that the rights of the other hereunder shall

not be exercised in such a manner as to interfere with the operations of the business of Cortaro or One Mart; and that each shall protect the confidentiality of all records, property and documents so furnished; provided that neither the furnishing of such information to the other or its representatives nor any investigation made heretofore or hereafter by the other shall affect each party's right to rely on any representation or warranty made by the other in this Agreement, each of which shall survive any furnishing of information or any investigation;

(2) Maintenance of Assets. Maintain all of the KEVT or KCKY Assets or replacements thereof and improvements thereon in good condition (in accordance with customary engineering standards), and use, operate and maintain all of the above assets in a reasonable manner, with inventories of spare parts and expendable supplies being maintained at levels consistent with past practices;

(3) Insurance. Maintain the existing or comparable replacement insurance policies on the Station and the KEVT Assets or KCKY Assets;

(4) Consents. Use its best efforts, subject to commercial practicality and reasonableness, to obtain the FCC Final Prior Approval and any other consents necessary to consummate the transaction contemplated by this Agreement;

(5) Books and Records. Maintain its books and records in accordance with past practices;

(6) Notification. Promptly notify the other in writing of any unusual or material developments with respect to the business or operations of KEVT or KCKY except for such developments which affect the economy or the radio industry in general, or which may be reasonably considered to be common public knowledge, and of any material change in any of the information contained in Cortaro's or One Mart's representations and warranties contained herein, provided that such notification shall not relieve the other of any obligations hereunder;

(7) Trade and Barter Agreements. Use all reasonable efforts to provide prior to the Closing the advertising time due under any trade and barter agreements;

(8) Financial Information. Furnish within fifteen (15) days after the end of each month ending between the date hereof and

the Closing a statement of income and expense for the month just ended and such other financial information (including information on payables and receivables) as the other may reasonably request and which is prepared in the ordinary course of business;

(9) Contracts. Prior to the Closing Date, deliver to the other a list of all contracts entered into between the date hereof and the Closing;

(10) Compliance with Laws. Comply with all rules and regulations of the FCC, and all other laws, rules and regulations to which Cortaro, One Mart, KEVT, KCKY, the KEVT Assets and KCKY Assets are subject.

## **12. SPECIAL COVENANTS AND AGREEMENTS**

**12.1 FCC Final Prior Approval.** The assignment of the FCC Licenses as contemplated by this Agreement is subject to obtaining the FCC Final Prior Approval.

A. As provided herein, One Mart and Cortaro shall file with the FCC appropriate applications for FCC Final Prior Approval. One Mart and Cortaro shall each pay one-half of the filing fees with the FCC for such applications. All other expenses in connection with such applications shall be paid as provided in paragraph 12.3. The parties shall prosecute said applications with all reasonable diligence and otherwise use their best efforts to obtain the grant of such applications as expeditiously as practicable. If the FCC Final Prior Approval imposes any condition on any party hereto, such party shall use its best efforts to comply with such condition. If reconsideration or judicial review is sought with respect to the FCC Final Prior Approval, Cortaro and One Mart shall oppose such efforts to reconsideration or judicial review (but nothing herein shall be construed to limit any party's right to terminate this Agreement). As used in this section, "best efforts" shall be deemed not to include those efforts which would be commercially unreasonable or impractical, or would have a material adverse effect upon the party making such efforts. Any pleading or other filing with the FCC before or after the initial FCC grant of the applications which addresses solely issues related to either One Mart and KCKY or Cortaro and KEVT shall be addressed solely by One Mart and KCKY, if directed at it, or Cortaro and KEVT, if directed at it, and each shall solely bear the expenses, including legal fees associated with addressing such pleading or other filing.

B. The exchange contemplated hereunder is expressly conditioned upon (i) the grant of the FCC Final Prior Approval without any materially

adverse conditions on Cortaro or One Mart other than as presently existing and as disclosed to Cortaro or One Mart, (ii) compliance by the parties hereto with the condition (if any) imposed in the FCC Final Prior Approval, and (iii) the FCC Final Prior Approval, through the passage of time or otherwise, becoming a final order

**12.2 Control of the Station.** Neither One Mart nor Cortaro shall directly or indirectly, control, supervise, direct, or attempt to control, supervise or direct, the operations of the Station; such operations, including complete control and supervision of all of KEVT's or KCKY's programs, employees, and policies, shall be subject to the KEVT TBA and KCKY TBA contemplated hereby.

**12.3 Taxes, Fees and Purposes.** Cortaro shall pay all sales, use, transfer, purchase, and recordation and documentary taxes and fees, if any, arising out of the transfer of the KEVT Assets pursuant to this Agreement. One Mart shall pay all sales, use, transfer, purchase, and recordation and documentary taxes and fees, if any, arising out of the transfer of the KCKY Assets pursuant to this Agreement. Unless otherwise provided herein, all filing fees required by the FCC shall be paid one half each by Cortaro and One Mart. Except as otherwise provided in this Agreement, each party shall pay its own expenses incurred in connection with the authorization, preparation, execution, and performance of this Agreement, including all fees and expenses of counsel, accountants, agents, and other representatives.

**12.4 Confidentiality.** Except as necessary for the consummation of the transaction contemplated hereby, each party hereto will keep confidential any information which is obtained from the other party in connection with the transaction contemplated hereby and which is not readily available to members of the general public. In the event this Agreement is terminated and the purchase and sale contemplated hereby abandoned, each party will return to the other party all documents, work papers and other written material obtained by it in connection with the transaction contemplated hereby.

**12.5 Repair and Replacement of Equipment.** From the date of this Agreement until Closing and during the terms of the KCKY TBA and KEVT TBA, One Mart shall have no obligation to repair or replace any KCKY Equipment to be exchanged at Closing; all repairs and replacement of KCKY Equipment shall be the sole responsibility of and at the expense of Cortaro, and Cortaro shall maintain in force property and casualty insurance coverage of the KCKY Equipment including the transmission facilities at the transmitter sites and of KCKY's offices and main studio facilities which insurance shall be in an amount equal to the replacement value of such property. From the date of this Agreement until Closing and during the terms of the KCKY TBA and KEVT TBA, Cortaro shall have no obligation to repair or replace any KEVT Equipment to be exchanged at Closing; all repairs and

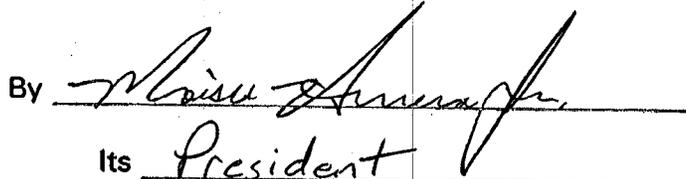
replacement of KEVT Equipment shall be the sole responsibility of and at the expense of One Mart, and One Mart shall maintain in force property and casualty insurance coverage of the KEVT Equipment including the transmission facilities at the transmitter sites and of KCKY's offices and main studio facilities which insurance shall be in an amount equal to the replacement value of such property.

12.6 Filing Agreement with the FCC. Cortaro and One Mart acknowledge and agree that each of them shall file a copy of this Agreement with the FCC promptly after execution.

ONE MART, CORP., an Arizona corporation

By   
Its President [One Mart]

CORTARO BROADCASTING CORPORATION, an Arizona corporation

By   
Its President [Cortaro]

Escrow Agent hereby accepts employment to handle the escrow established by this Agreement in accordance with the terms set forth in this Agreement

FIRST AMERICAN TITLE INSURANCE, an Arizona corporation

By   
Carol Peterson  
Its Agent [Escrow Agent]

**EXHIBIT A**

**[Coolidge Property]**

That part of the Southeast quarter of Section 8, Township 5 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, more particularly described as follows:

COMMENCING at the Southwest corner of said Southeast quarter; Thence North along the West line of said Southeast quarter, a distance of 1315 feet to a point;

Thence East and parallel to the South line of said Southeast quarter, a distance of 187 feet to the TRUE POINT OF BEGINNING;

Thence North and parallel to said West line a distance of 150 feet to a point;

Thence West and parallel to said South line a distance of 47 feet to a point;

Thence North and parallel to said West line a distance of 485 feet to a point;

Thence West and parallel to said South line a distance of 110 feet to a point;

Thence North and parallel to said West line a distance of 400 feet to a point;

Thence East and parallel to said South line a distance of 385 feet to a point;

Thence South and parallel to said West line a distance of 555 feet to a point;

Thence East and parallel to said South line a distance of 85 feet to a point 500 feet from said West line;

Thence South and parallel to said West line a distance of 400 feet to a point;

Thence West and parallel to said South line a distance of 163 feet to a point;

Thence South and parallel to said West line a distance of 80 feet to a point;

Thence West and parallel to said South line a distance of 150 feet to the POINT OF BEGINNING.

TOGETHER with an easement for ingress and egress over and across a strip of land 20 feet wide commencing at the Southeast corner of above described property and continuing Southerly to a point which exits on State Highway 87.

**EXHIBIT B**

**[KCKY Equipment]**

1 CONSOLE BE 8M 150  
1 MICROPHONE ARM  
1 J.B.L. SPEAKER  
2 K.L.H. SPEAKER  
1 KOSS SPEAKER  
2 DECK SHARP & REALISTIC  
3 INTERNATIONAL TAPETRONICS CORP. CARTRIDGE PLAYER  
1 CD PLAYER ONKYO  
1 CD PLAYER SONY  
1 SAM (SAFETY ALERT MONITOR) HU-961  
1 CSI FM/AM TUNNING DIGITAL P-FA/PU FREQUENCY  
SYNTHETIC.  
1 PROGRAM INTERRUPTOR SWITCH  
1 GENTNER SPH-5  
1 MULTICONTACT  
1 MICROPHONE ARM  
9 SECRETARIAL CHAIRS  
4 OFFICE DESK  
1 CEALING FAN  
5 PHONES  
170 CARTRIDGES  
1 MICROWAVE  
5 FILE CABINETS  
1 ELECTRICITY EXTENSION  
1 A/C ETL MODEL B2BM060 K-C  
(INTERTHERM) SERIAL NUMBER B2B9604-00724  
1 BELAR AM MODULATION MONITOR  
1 PEAX MODULATION CONTROLLER MODEL CRL SYSTEM  
1 MULTIBAND AUDIO PROCESSOR- MODEL 231 MAP II  
1 POTOMAC INSTRUMENT (ANTENA MONITOR)  
AM-19 (204)  
1 EBS SYSTEM MODEL 760-03  
1 RCA 6000 KILOVOLTS TRANSMITTER  
1 TRANSMITOR MODEL 790-0544-001  
1 TRANSMITOR BE MODEL AM 5 U 50/60 HZ  
1 MAGNAVOX RADIO/CASSET/CD  
4 LIGHT BULBS FOR ANTENA  
1 WINDOW A/C GIBSON, 1 TON

**EXHIBIT C**

**[Tucson Property]**

**Legal description:**

That portion of the S $\frac{1}{2}$  NW $\frac{1}{4}$ , lying N. and E. of SP R/W and  
W $\frac{1}{2}$ W $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  Except 200 ft. strip adjacent to SPR $\frac{1}{2}$  of  
Sec. 16 T 12S R12 E, GSR $\frac{1}{2}$  & X, being 20.93 acres more or less  
as per Pima County Records Office.

**EXHIBIT D**

**[KEVT Equipment]**

## **EQUIPMENT**

### **TOWER SITE**

1. Four Towers
2. Small Building approximately 20 x 10
3. Two Air Conditioners
4. Matrix Processor - AM Stereo - System 5vp-900
5. Mosley MRC-1620 Remote Control Systems
6. 10 KW Transmitter - Continental
7. 1 KW Gates Harris Serial 120611
8. Antenna Monitor Model No. CNR Type No. 3-242
9. All the Phasing Equipment
10. Remote Control System MRC 1620 Mosley
11. Audio Level Controller
12. PI-963 Program Interrupt Switch
13. Encoder HV-961 - CAS
14. FM and AM Tuner P-FA