

## ASSET EXCHANGE AGREEMENT

THIS ASSET EXCHANGE AGREEMENT (this "*Agreement*") is made as of October 28<sup>th</sup>, 2014, between ROME RADIO PARTNERS, LLC ("*RRP*"), and HEIRBORN INDUSTRIES, INC. ("*HMI*").

### RECITALS

A. RRP owns and operates radio broadcast station WZOT(AM), Rockmart, Georgia (FCC Facility ID No. 7041) ("*WZOT*") pursuant to certain authorizations issued by the Federal Communications Commission (the "*FCC*").

B. HMI owns and operates radio broadcast station WROM(AM) Rome, Georgia (FCC Facility ID No. 66283) ("*WROM*" or the "*HMI Station*") pursuant to certain authorizations issued by the FCC.

C. Subject to the terms and conditions set forth herein, the parties desire to exchange the WZOT Station Assets (defined below) for the HMI Station Assets (defined below). The parties intend the exchange of WZOT Station Assets and HMI Station Assets contemplated by this Agreement without further consideration and as a like-kind exchange in accordance with the provisions of Section 1031 of the Internal Revenue Code of 1986, as amended (the "*Code*").

### AGREEMENT

NOW, THEREFORE, taking the foregoing into account, and in consideration of the mutual covenants and agreements set forth herein, the parties, intending to be legally bound, hereby agree as follows:

### ARTICLE 1: EXCHANGE OF ASSETS

1.1. *WZOT Station Assets*. On the terms and subject to the conditions hereof, on the Closing Date (defined below), RRP shall assign, transfer, convey and deliver to HMI, and HMI shall acquire from RRP, all of the right, title and interest of the WZOT Station Assets (the "*WZOT Station Assets*"), as follows:

1.1.1. all licenses, permits and other authorizations which are issued to RRP by the FCC with respect to the WZOT (the "*WZOT FCC Licenses*"), including without limitation those described on **Schedule 1.1.1**, including any renewals or modifications thereof between the date hereof and Closing;

1.1.2. all transmission equipment, electrical devices, cables, tools, hardware, office furniture and fixtures, office materials and supplies, inventory, spare parts and other tangible personal property of every kind and description which are located at the WZOT transmitter site and used exclusively in the operation of WZOT, including without limitation those listed on **Schedule 1.1.2**, except any retirements or disposi-

tions thereof made between the date hereof and Closing in the ordinary course of business and consistent with past practices of RRP (the “WZOT Tangible Personal Property”);

1.1.3. all of RRP’s rights in and to WZOT’s call letters and other intangible property which are used exclusively in the operation of WZOT, including without limitation those listed on **Schedule 1.1.3** (the “WZOT Intangible Property”);

1.1.4. RRP’s rights in and to all the files, documents, and records, (or copies thereof) relating exclusively to the operation of WZOT, including the WZOT’s local public files, technical information and engineering data, and logs, but excluding records relating to the RRP’s Excluded Assets (defined below);

1.1.5 any real property which is used exclusively in the operation of WZOT (including any of WZOT’s appurtenant easements and improvements located thereon), including without limitation those described on **Schedule 1.1.5** (the “RRP Real Property”);

1.1.6. any and all claims and rights against third parties if and to the extent that they relate to the WZOT Station Assets, including, without limitation, all rights under manufacturers’ and vendors’ warranties;

1.1.7. all of RRP’s goodwill in, and going concern value of, the WZOT; and

1.2. **RRP Excluded Assets.** Notwithstanding anything to the contrary contained herein, the WZOT Station Assets shall not include the following assets along with all rights, title and interest therein (the “RRP Excluded Assets”):

1.2.1. all cash and cash equivalents of RRP, including without limitation certificates of deposit, commercial paper, treasury bills, marketable securities, asset or money market accounts and all such similar accounts or investments;

1.2.2. all accounts receivable or notes receivable arising in the operation of the WZOT prior to Closing;

1.2.3. all tangible and intangible personal property of RRP respecting WZOT disposed of or consumed in the ordinary course of business of WZOT between the date of this Agreement and Closing;

1.2.4. RRP’s name, corporate minute books, charter documents, corporate stock record books and such other books and records as pertain to the organization, existence or share capitalization of RRP, duplicate copies of the records of the WZOT, and all records not relating exclusively to the operation of WZOT;

1.2.5. contracts of insurance, and all insurance proceeds or claims made thereunder;

1.2.6. whatever the number, any licensed hardware or software programs used in the daily operations of WZOT

1.2.7. all rights, properties and assets described on **Schedule 1.2.7**, and all rights, properties and assets not specifically described in **Section 1.1**.

1.3. **HMI Station Assets**. On the terms and subject to the conditions hereof, on the Closing Date (defined below), HMI shall assign, transfer, convey and deliver to RRP, and RRP shall acquire from HMI, all of the right, title and interest of the WROM (the “HMI Station Assets”), as follows:

1.3.1. all licenses, permits and other authorizations which are issued to HMI Party by the FCC with respect to the HMI Station (the “*HMI FCC Licenses*”), including without limitation those described on **Schedule 1.3.1**, including any renewals or modifications thereof between the date hereof and Closing;

1.3.2. all transmission equipment, electrical devices, antennae, cables, tools, hardware, inventory, spare parts and other tangible personal property of every kind and description which are located at the WROM Station transmitter site and used exclusively in the operation of the WROM, including without limitation those listed on **Schedule 1.3.2**, made between the date hereof and Closing in the ordinary course of business and consistent with past practices of HMI (the “*HMI Tangible Personal Property*”);

1.3.3. all of HMI’s rights in and to WROM’s call letters and HMI’s rights in and to the trademarks, trade names, slogans, logos, and other intangible property which are used exclusively in the operation of WROM, including without limitation those listed on **Schedule 1.3.3** (the “*HMI Intangible Property*”);

1.3.4. HMI’s rights in and to all the files, documents, and records, (or copies thereof) relating exclusively to the operation of WROM, including the WROM’s local public files, technical information and engineering data, and logs, but excluding records relating to the HMI’s Excluded Assets (defined below);

1.3.5 any real property which is used exclusively in the operation of WROM (including any of WZOT’s appurtenant easements and improvements located thereon), including without limitation those described on **Schedule 1.3.5** (the “*HMI Real Property*”);

1.3.6. any and all claims and rights against third parties if and to the extent that they relate to the HMI Station Assets, including, without limitation, all rights under manufacturers’ and vendors’ warranties;

1.3.7. all of HMI’s goodwill in, and going concern value of, WROM; and

1.4. **HMI Excluded Assets**. Notwithstanding anything to the contrary contained herein, the HMI Station Assets shall not include the following assets along with all rights, title and interest therein (the “*HMI Excluded Assets*”):

1.4.1. all cash and cash equivalents of HMI, including without limitation certificates of deposit, commercial paper, treasury bills, marketable securities, asset or money market accounts and all such similar accounts or investments;

1.4.2. all accounts receivable or notes receivable arising in the operation of the WROM prior to Closing;

1.4.3. all tangible and intangible personal property of HMI respecting WROM disposed of or consumed in the ordinary course of business of WROM between the date of this Agreement and Closing;

1.4.5. HMI's name, corporate minute books, charter documents, corporate stock record books and such other books and records as pertain to the organization, existence or share capitalization of HMI, duplicate copies of the records of the WROM, and all records not relating exclusively to the operation of WROM;

1.4.6. contracts of insurance, and all insurance proceeds or claims made thereunder; and

1.4.7. all rights, properties and assets described on **Schedule 1.4.7**, and all rights, properties and assets not specifically described in **Section 1.3**.

1.5. **Lease Agreements.** At Closing, RRP and the HMI shall enter into lease agreement(s) whereby HMI shall lease (i) RRP's Elm Street, Rockmart, Georgia, premises as well as (ii) the tower land and building used as the transmitter site for WZOT. The form and substance of those leases shall be reasonably satisfactory to HMI and RRP.

## **ARTICLE 2: ASSUMPTION OF OBLIGATIONS**

2.1. **RRP Assumed Obligations.** On the Closing Date, RRP shall assume the obligations of HMI (the "**RRP Assumed Obligations**") arising after Closing under any leases assumed or undertaken by RRP as specifically described on **Schedule 2.1**.

2.2. **HMI Retained Obligations.** RRP does not assume or agree to discharge or perform and will not be deemed by reason of the execution and delivery of this Agreement or any agreement, instrument or document delivered pursuant to or in connection with this Agreement or otherwise by reason of the consummation of the transactions contemplated hereby, to have assumed or to have agreed to discharge or perform, any liabilities, obligations or commitments of HMI of any nature whatsoever whether accrued, absolute, contingent or otherwise and whether or not disclosed to RRP, other than the RRP Assumed Obligations (the "**HMI Retained Obligations**").

2.3. **HMI Assumed Obligations.** On the Closing Date, HMI shall assume the obligations of RRP (the "**HMI Assumed Obligations**") arising after Closing under any leases assumed or undertaken by HMI as specifically described on **Schedule 2.3**.

2.4. **WZOT Retained Obligations.** HMI does not assume or agree to discharge or perform and will not be deemed by reason of the execution and delivery of this Agree-

ment or any agreement, instrument or document delivered pursuant to or in connection with this Agreement or otherwise by reason of the consummation of the transactions contemplated hereby, to have assumed or to have agreed to discharge or perform, any liabilities, obligations or commitments of WZOT of any nature whatsoever whether accrued, absolute, contingent or otherwise and whether or not disclosed to HMI, other than the HMI Assumed Obligations (the “*WZOT Retained Obligations*”).

### ARTICLE 3: ADJUSTMENTS, ETC.

3.1. *Prorations and Adjustments.* Except as otherwise provided herein, all deposits, reserves and prepaid and deferred income and expenses arising from the conduct of the business and operations of the WZOT and the HMI Station shall be prorated in accordance with generally accepted accounting principles as of 11:59 p.m. on the date immediately preceding the Closing Date. Such prorations shall include, without limitation, all ad valorem, real estate and other property taxes (but excluding transfer taxes which shall be paid as set forth in **Section 9.1**), business and license fees, music and other license fees (including any retroactive adjustments thereof), utility expenses, amounts due or to become due under contracts, rents, lease payments and similar prepaid and deferred items. Real estate taxes shall be apportioned on the basis of taxes assessed for the preceding year, with a reapportionment, if any, as soon as the new tax rate and valuation can be ascertained. The prorations and adjustments contemplated by this **Section 3.1** shall be made within sixty (60) calendar days of the Closing Date. In the event of any disputes between the parties as to such adjustments, the amounts not in dispute shall nonetheless be paid at the time provided herein and such disputes shall be determined by an independent certified public accountant mutually acceptable to the parties, the determination of which shall be final and binding on the parties, and the fees and expenses of such accountant shall be paid one-half by RRP and one-half by HMI. Promptly following agreement or final determination regarding the prorations contemplated by this **Section 3.1**, a cash payment in respect of such prorations shall be made by RRP to HMI or by HMI to RRP, as the case may be.

### ARTICLE 4: CLOSING

4.1. *Closing.* The consummation of the exchange of assets under this Agreement (the “*Closing*”) shall occur on a date (the “*Closing Date*”) within five (5) business days after the grant of the FCC Consent by Final Order (as such terms are defined below), which date shall be designated by RRP, and at a time and place designated by RRP, subject to satisfaction or waiver of the conditions to Closing contained herein (other than those to be satisfied at Closing); *provided, however*, that if there is not protest or objection to the FCC Application (as defined below), then the Closing Date, at the reasonable discretion of RRP and upon prior written notice to HMI, shall occur within ten (10) business days of the grant of the FCC Consent.

### ARTICLE 5: GOVERNMENTAL CONSENTS

Closing is subject to and conditioned upon prior FCC consent (the “*FCC Consent*”) to the assignment of the RRP FCC Licenses to HMI and the HMI FCC Licenses to RRP. For purposes of this Agreement, a “*Final Order*” shall mean an action or order of the FCC which shall have been issued by the FCC in writing, and (A) shall not have been reversed, stayed, enjoined, set aside, annulled or suspended, and (B) no protest, request for stay, reconsideration or review by the FCC on its own motion or by any third party,

petition for FCC reconsideration or for rehearing, application for FCC review, or judicial appeal of such action or order shall be pending, and the period provided by law for initiating such protest, request for stay, reconsideration or review by the FCC on its own motion, petition for FCC reconsideration or for rehearing, application for FCC review, or judicial appeal of such action or order shall have expired.

5.1. **FCC.** Within five (5) business days of the date of this Agreement, HMI and RRP shall file applications with the FCC (the “*FCC Application*”) requesting the FCC Consent. HMI and RRP shall diligently prosecute the FCC Application and otherwise use their best reasonable efforts to obtain the FCC Consent as soon as possible.

5.2. **General.** HMI and RRP shall notify each other of all documents filed with or received from any governmental agency (including the FCC) with respect to this Agreement or the transactions contemplated hereby. HMI and RRP shall furnish each other with such information and assistance as such the other may reasonably request in connection with their preparation of any governmental filing hereunder. Without limiting the foregoing, HMI and RRP shall cooperate with the FCC in connection with obtaining the FCC Consent, and shall promptly provide all information and documents requested by the FCC in connection therewith. If either HMI or RRP becomes aware of any fact relating to it which would prevent or delay the FCC Consent, such party shall promptly notify the other party thereof and the parties shall use commercially reasonable efforts to remove such impediment. For the avoidance of doubt, when the term “other party” is used in this agreement, then with respect to RRP the “other party” shall be HMI, and with respect to HMI the “other party” shall be RRP.

## ARTICLE 6: REPRESENTATIONS AND WARRANTIES

HMI and RRP each represent and warrant to the other as follows:

6.1. **Organization.** HMI and RRP each is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, and is qualified to do business in each jurisdiction in which the respective WZOT Station Assets and the HMI Station Assets (the WZOT Station Assets and HMI Station Assets hereafter sometimes are collectively referred to as the “*Exchange Station Assets*”) located. HMI and RRP each has the requisite power and authority to execute and deliver this Agreement and all of the other agreements and instruments to be executed and delivered by either HMI or RRP pursuant hereto (collectively, the “*Ancillary Agreements*”), to consummate the transactions contemplated hereby and thereby and to comply with the terms, conditions and provisions hereof and thereof.

6.2. **Authorization.** The execution, delivery and performance of this Agreement and the Ancillary Agreements by each HMI and RRP have been duly authorized and approved by all necessary action of each respective entity, HMI and RRP, and do not require any further authorization or consent of HMI or RRP, as applicable. This Agreement is, and each Ancillary Agreement when executed and delivered by one or both of the re-

spective parties, and/or the other parties thereto will be, a legal, valid and binding agreement, as applicable, of the respective parties (*i.e.*, HMI and RRP), or each other respectively, and enforceable in accordance with its respective terms, except in each case as such enforceability may be limited by bankruptcy, moratorium, insolvency, reorganization or other similar laws affecting or limiting the enforcement of creditors' rights generally and except as such enforceability is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

6.3. **No Conflicts.** Neither the execution and delivery by either HMI or RRP of this Agreement and the Ancillary Agreements or the consummation by RRP and/or HMI of any of the transactions contemplated hereby or thereby nor compliance by either HMI or RRP with, or fulfillment by HMI and RRP of the terms, conditions and provisions hereof or thereof will: (i) conflict with any organizational documents of the applicable party or any law, judgment, order, or decree to which either of the respective parties are subject or (ii) require the approval, consent, authorization or act of, or the making by either HMI or RRP of any declaration, filing or registration with, any third party or any foreign, federal, state or local court, governmental or regulatory authority or body, except the FCC Consent.

6.4. **FCC Licenses.** HMI and RRP each is the holder of the respective WZOT FCC Licenses and HMI FCC Licenses (collectively, hereafter sometimes the "*FCC Authorizations*") described, respectively on **Schedules 1.1.1 and 1.3.1**. As pertinent to the respective parties, each of the FCC Authorizations are in full force and effect and have not been revoked, suspended, canceled, rescinded or terminated and have not expired. There is not pending any action by or before the FCC to revoke, suspend, cancel, rescind or materially adversely modify any of the FCC Authorizations (other than proceedings to amend FCC rules of general applicability), and there is not now issued or outstanding, by or before the FCC, any order to show cause, notice of violation, notice of apparent liability, or notice of forfeiture against either HMI or RRP with respect to the FCC Authorizations or WZOT or WROM (collectively "*the Exchange Stations*" or individually and respectively its "*Exchange Station*"). Each of the Exchange Stations, as applicable, is operating in compliance in all material respects with the FCC Authorizations, the Communications Act of 1934, as amended (the "*Communications Act*"), and the rules, regulations and policies of the FCC (collectively, the "*FCC Regulations*").

6.5. **Taxes.** HMI and RRP each has respectively and with respect to of the business of each of the respective stations, as applicable, filed all foreign, federal, state, county and local income, excise, property, sales, use, franchise and other tax returns and reports which are required to have been filed by it under applicable law and has paid all taxes which have become due pursuant to such returns or pursuant to any assessments which have become payable.

6.6. **Compliance with Law.** Except as set forth on **Schedule 6.6**, HMI and RRP each has complied in all material respects with all laws, regulations, rules, writs, injunc-

tions, ordinances, franchises, decrees or orders of any court or of any foreign, federal, state, municipal or other governmental authority which are applicable to the operation of its respective radio stations that are subject to this Agreement (*i.e.*, WZOT and WROM, respectively). There is no action, suit or proceeding pending or threatened against either HMI or RRP in respect of each of its respective Exchange Stations, or to which will subject the respective parties to liability or which questions the legality or propriety of the transactions contemplated by this Agreement. To respective knowledge of both HMI and RRP, there are no governmental claims or investigations pending or threatened against it in respect of the Exchange Stations, as applicable (except those affecting the industry generally).

6.7. **No Finder.** No broker, finder or other person is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action of HMI or RRP, or any party acting on behalf of either HMI or RRP.

6.8. **Qualification.** Each of HMI and RRP, respectively, is legally, financially and otherwise qualified to be the licensee of, acquire, own and operate the Exchange Stations, as pertinent, under the Communications Act and the FCC Regulations. There are no facts that would, under existing law and the existing rules, regulations, policies and procedures of the FCC, disqualify either HMI or RRP as an assignee of the FCC Authorizations for the respective Exchange Stations, as applicable, or as the owner and operator of the respective Exchange Stations, as applicable. No request by either HMI or RRP for waiver of any FCC rule or policy is necessary for the FCC Consent to be obtained. Except as set forth on **Schedule 6.9**, there is no action, suit or proceeding pending or threatened against either HMI or RRP which could materially adversely affect the ability of either HMI or RRP to perform its respective obligations hereunder.

6.9. **Litigation.** Except as set forth on **Schedule 6.9**, there are no suits, arbitrations, administrative charges or other legal proceedings, claims or governmental investigations pending against either HMI or RRP, or, to their knowledge, threatened against, it, respectively, or the Exchange Stations relating to or affecting the Exchange Stations nor, to the best of the knowledge of the respective parties hereto, is there any basis for any such suit, arbitration, administrative charge or other legal proceeding, claim or governmental investigation. Neither RRP nor HMI has not been operating under or subject to, or in default with respect to, any judgment, order, writ, injunction or decree of any court or federal, state, municipal or other governmental department, commission, board, agency or instrumentality, foreign or domestic.

6.10. **Disclosure.** No provision or information contained in this Agreement relating to each of the respective parties, the Exchange Stations or the Exchange Station Assets, or in any Schedule or Exhibit hereto, or the information to be provided to the other party pursuant to this Agreement, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact required to be stated in order to make

the statement, in light of the circumstances in which it is made, not misleading. Except for facts affecting the radio industry generally, there is no adverse fact now known to either HMI or RRP relating to the Exchange Stations, the Exchange Station Assets which would have a material adverse impact on the either of the Exchange Station Assets, respectively, or the operation of the Exchange Stations after the Closing which has not been disclosed by one party to the other.

## ARTICLE 7: JOINT COVENANTS

Between the date hereof and the Closing HMI and RRP each hereby covenants and agrees as follows:

### 7.1. *Operating Covenants.* HMI and RRP each shall

7.1.1. operate its respective Exchange Station in the ordinary course of business consistent with past practice and in all material respects in accordance with FCC rules and regulations and with all other applicable laws, regulations, rules and orders;

7.1.2. not, other than in the ordinary course of business in accordance with past practice, sell, lease or dispose of or agree to sell, lease or dispose of any of either the Exchange Station Assets, as applicable, or create, assume or permit to exist any liens upon the respective Exchange Station Assets; and,

7.1.3. furnish the other party to this Agreement with such information relating to the Exchange Station Assets as that other party may reasonably request, at that other party's expense, and provided such request does not interfere unreasonably with the business of either of the respective Exchange Stations.

7.2. *Cooperation.* Subject to express limitations contained elsewhere herein, each party (i) shall cooperate fully with one another in taking any commercially reasonable actions (including without limitation, reasonable actions to obtain the required consent of any governmental instrumentality or any third party) necessary or helpful to accomplish the transactions contemplated by this Agreement, including but not limited to the prompt satisfaction of any condition to Closing set forth herein, and (ii) shall not take any action that conflicts with its obligations hereunder or that causes its representations and warranties to become untrue in any material respect.

7.3. *Control of Stations.* Neither party shall, directly or indirectly, control, supervise or direct the operations of the other party's Exchange Station prior to Closing. Such operations, including complete control and supervision of all programs, employees and policies, shall be the sole responsibility of the FCC licensee thereof.

7.4. *Consents to Assignment.* The parties shall use commercially reasonable efforts to obtain any third party consents necessary for the assignment of any third party contract (which shall not require any payment to any such third party). To the extent that any such contract may not be assigned without the consent of any third party, and such

consent is not obtained prior to Closing, this Agreement and any assignment executed pursuant hereto shall not constitute an assignment thereof, but to the extent permitted by law shall constitute an equitable assignment and assumption of rights and obligations thereunder, with the conveying party making available to the acquiring party the benefits thereof and the acquiring party performing the obligations thereunder on the conveying party's behalf.

## **ARTICLE 8: CONDITIONS OF CLOSING**

The obligations of both RRP and/or HMI hereunder are, at their respective options, subject to satisfaction, at or prior to Closing, of each of the following conditions:

8.1. ***Representations, Warranties and Covenants.*** The representations and warranties of HMI and RRP made in this Agreement shall be true and correct in all material respects as of the Closing Date except for changes permitted or contemplated by the terms of this Agreement, and the covenants and agreements to be complied with and performed by either HMI or RRP at or prior to Closing shall have been complied with or performed in all material respects. HMI and RRP each shall have received a certificate dated as of the Closing Date from the other party, executed by an authorized officer of that party to the effect that the conditions set forth in this Section have been satisfied.

8.2. ***Governmental Consents.*** The FCC Consent shall have been obtained, and shall have become a Final Order, and no court or governmental order prohibiting Closing shall be in effect.

## **ARTICLE 9: EXPENSES**

9.1. ***Expenses.*** Each party shall be solely responsible for all costs and expenses incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement, except that (i) all recordation, transfer and documentary taxes, fees and charges, and any excise, sales or use taxes, applicable to the transfer of each the respective Exchange Station Assets shall be paid by the party acquiring the respective Exchange Station Assets. All FCC filing fees shall be shared and paid equally by HMI and RRP.

## **ARTICLE 10: DOCUMENTS TO BE DELIVERED AT CLOSING**

10.1 ***Closing Documents.*** At Closing, HMI and RRP each shall deliver the other, or cause to be delivered to the other:

10.1.1. certified copies of resolutions authorizing its execution, delivery and performance of this Agreement, including the consummation of the transactions contemplated hereby;

10.1.2. the certificates described in **Section 8.1**;

10.1.3. such bills of sale, assignments, special warranty deeds, documents of title and other instruments of conveyance, assignment and transfer as may be necessary to convey, transfer and assign to the other the respective Exchange Station Assets, free and clear of liens and encumbrances; and

10.1.4. such documents and instruments of assumption as reasonably may be necessary to assume each of the parties' respective Assumed Obligations.

## **ARTICLE 11: SURVIVAL; INDEMNIFICATION.**

11.1. *Survival.* The covenants, agreements, representations and warranties in this Agreement shall survive Closing for a period of twelve (12) months from the Closing Date whereupon they shall expire and be of no further force or effect, except those under (i) this **Article 11** that relate to Damages (defined below) for which written notice is given by the indemnified party to the indemnifying party prior to the expiration, which shall survive until resolved and (ii) the following provisions (the "*Expense Provisions*"): **Sections 2.1** and **2.3** (Assumed Obligations), **3.1** (Adjustments), and **9.1** (Expenses), and indemnification obligations with respect to such provisions, which shall survive until performed.

### **11.2. Indemnification.**

11.2.1. From and after the Closing, HMI and RRP each shall defend, indemnify and hold harmless the other party from and against any and all losses, costs, damages, liabilities and expenses, including reasonable attorneys' fees and expenses ("*Damages*") incurred by the other party arising out of or resulting from: (i) any breach or default by the other party under this Agreement; (ii) the other party's retained obligations, as defined in this Agreement, or the business or operation of the other party's respective Exchange Station before Closing; or (iii) the other party's assumed obligations or the business or operation of the other party's respective Exchange Station after Closing; *provided, however*, that, except for the Expense Provisions (which shall not be subject to such limitations), (i) neither RRP nor HMI shall have no liability to the other party hereunder until, and only to the extent that, the other party's aggregate Damages exceed \$10,000 and (ii) the maximum liability for both HMI and RRP hereunder shall be \$1,000,000.

11.3. *Procedures.* The indemnified party shall give prompt written notice to the indemnifying party of any demand, suit, claim or assertion of liability by third parties or other circumstances that could give rise to an indemnification obligation hereunder against the indemnifying party (a "*Claim*"), but a failure to give such notice or delaying such notice shall not affect the indemnified party's right to indemnification and the indemnifying party's obligation to indemnify as set forth in this Agreement, except to the extent the indemnifying party's ability to remedy, contest, defend or settle with respect to such Claim is thereby prejudiced. The obligations and liabilities of the parties with respect to any Claim shall be subject to the following additional terms and conditions:

11.3.1. The indemnifying party shall have the right to undertake, by counsel or other representatives of its own choosing, the defense or opposition to such Claim.

11.3.2. In the event that the indemnifying party shall elect not to undertake such defense or opposition, or, within twenty (20) days after written notice (which shall include sufficient description of background information explaining the basis for such Claim) of any such Claim from the indemnified party, the indemnifying party shall fail to undertake to defend or oppose, the indemnified party (upon further written notice to the indemnifying party) shall have the right to undertake the defense, opposition, compromise or settlement of such Claim, by counsel or other representatives of its own choosing, on behalf of and for the account and risk of the indemnifying party (subject to the right of the indemnifying party to assume defense of or opposition to such Claim at any time prior to settlement, compromise or final determination thereof).

11.3.3. Anything herein to the contrary notwithstanding: (i) the indemnified party shall have the right, at its own cost and expense, to participate in the defense, opposition, compromise or settlement of the Claim; (ii) the indemnifying party shall not, without the indemnified party's written consent, settle or compromise any Claim or consent to entry of any judgment which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the indemnified party of a release from all liability in respect of such Claim; and (iii) in the event that the indemnifying party undertakes defense of or opposition to any Claim, the indemnified party, by counsel or other representative of its own choosing and at its sole cost and expense, shall have the right to consult with the indemnifying party and its counsel or other representatives concerning such Claim and the indemnifying party and the indemnified party and their respective counsel or other representatives shall cooperate in good faith with respect to such Claim.

11.3.4. All claims not disputed shall be paid by the indemnifying party within thirty (30) days after receiving notice of the Claim. "*Disputed Claims*" shall mean claims for Damages by an indemnified party which the indemnifying party objects to in writing within thirty (30) days after receiving notice of the Claim. In the event there is a Disputed Claim with respect to any Damages, the indemnifying party shall be required to pay the indemnified party the amount of such Damages for which the indemnifying party has, pursuant to a final determination, been found liable within ten (10) days after there is a final determination with respect to such Disputed Claim. A final determination of a Disputed Claim shall be (i) a judgment of any court determining the validity of a Disputed Claim, if no appeal is pending from such judgment and if the time to appeal therefrom has elapsed; (ii) an award of any arbitration determining the validity of such disputed claim, if there is not pending any motion to set aside such award and if the time within which to move to set aside such award has elapsed; (iii) a written termination of the dispute with respect to such claim signed by the parties thereto or their attorneys; (iv) a written acknowledgment of the indemnifying party that it no longer disputes the validity of such claim; or (v) such other evidence of

final determination of a disputed claim as shall be acceptable to the parties. No undertaking of defense or opposition to a Claim shall be construed as an acknowledgment by such party that it is liable to the party claiming indemnification with respect to the Claim at issue or other similar Claims.

## ARTICLE 12: TERMINATION

12.1. **Termination.** This Agreement may be terminated at any time prior to Closing as follows:

12.1.1. by mutual written consent of HMI and RRP;

12.1.2. by written notice of RRP to HMI if HMI breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements herein contained and such breach or default is not cured within the Cure Period (defined below)

12.1.3. by written notice of HMI to RRP if RRP (i) does not satisfy the conditions or perform the obligations to be satisfied or performed by it on the Closing Date; or (ii) otherwise breaches in any material respect any of its representations or warranties or defaults in any material respect in the performance of any of its covenants or agreements herein contained and such breach or default is not cured within the Cure Period (defined below)

12.1.4 by written notice of either party to the other if the FCC denies the FCC Application by Final Order; or

12.1.5. by written notice of RRP to HMI, or HMI to RRP, if the Closing shall not have been consummated on or before the first anniversary of the date of this Agreement. The term “*Cure Period*” as used herein means a period commencing the date a party receives from the other written notice of breach or default hereunder and continuing until the earlier of (i) thirty (30) calendar days thereafter or (ii) the Closing Date; *provided, however*, that if the breach or default cannot reasonably be cured within such period but can be cured before the Closing Date, and if diligent efforts to cure promptly commence, then the Cure Period shall continue as long as such diligent efforts to cure continue, but not beyond the Closing Date. Except as set forth below, the termination of this Agreement shall not relieve any party of any liability for breach or default under this Agreement prior to the date of termination. Notwithstanding anything contained herein to the contrary, **Section 9.1** shall survive any termination of this Agreement.

12.2. **Remedies.** The parties recognize that if either party refuses to consummate the Closing pursuant to the provisions of this Agreement or either party otherwise breaches or defaults such that the Closing has not occurred (“*Breaching Party*”), monetary damages alone will not be adequate to compensate the non-breaching party (“*Non-Breaching Party*”) for its injury. Such Non-Breaching Party shall therefore be entitled to

obtain specific performance of the terms of this Agreement in lieu of, and not in addition to, any other remedies, including but not limited to monetary damages, that may be available to it. If any action is brought by the Non-Breaching Party to enforce this Agreement, the Breaching Party shall waive the defense that there is an adequate remedy at law. In the event of a default by the Breaching Party which results in the filing of a lawsuit for damages, specific performance, or other remedy, the Non-Breaching Party shall be entitled to reimbursement by the Breaching Party of reasonable legal fees and expenses incurred by the Non-Breaching Party, provided that the Non-Breaching Party is successful in such lawsuit.

### **ARTICLE 13: MISCELLANEOUS PROVISIONS**

13.1. **Casualty Loss.** In the event any loss or damage of the WZOT Tangible Personal Property or RRP Real Property or the HMI Tangible Personal Property or HMI Real Property exists on the Closing Date, the parties shall consummate the Closing and assign as appropriate the proceeds of any insurance payable on account of such damage or loss.

13.2. **Further Assurances.** After the Closing, each party shall from time to time, at the request of and without further cost or expense to the other, execute and deliver such other instruments and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby to exchange assets and assume obligations as contemplated by this Agreement.

13.3. **Assignment.** Neither party may assign this Agreement without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld or delayed. With respect to any permitted assignment, the parties shall take all such actions as are reasonably necessary to effectuate such assignment, including but not limited to cooperating in any appropriate filings with the FCC or other governmental authorities. All covenants, agreements, statements, representations, warranties and indemnities in this Agreement by and on behalf of any of the parties hereto shall bind and inure to the benefit of their respective successors and permitted assigns of the parties hereto.

13.4. **Amendments.** No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, extension or discharge is sought.

13.5. **Headings.** The headings set forth in this Agreement are for convenience only and will not control or affect the meaning or construction of the provisions of this Agreement.

13.6. **Governing Law.** The construction and performance of this Agreement shall be governed by the laws of the State of Georgia without giving effect to the choice of law provisions thereof.

13.7. **Notices.** Any notice, demand or request required or permitted to be given under the provisions of this Agreement shall be in writing, including by facsimile, and shall be deemed to have been received on the date of personal delivery, on the third day after deposit in the U.S. mail if mailed by registered or certified mail, postage prepaid and return receipt requested, on the day after delivery to a nationally recognized overnight courier service if sent by an overnight delivery service for next morning delivery or when delivered by facsimile transmission, and shall be addressed as follows (or to such other address as any party may request by written notice):

if to RRP:	RRP Broadcasting, Inc. 20 John Davenport Dr. Rome, Ga. 30165 Attention: Howard C. Toole Facsimile: 706-235-7107
with a copy (which shall not constitute notice) to:	Sciarrino & Shubert PLLC 5425 Tree Line Dr. Centreville, Va.20120 Attention: Lee W. Shubert Esq. Facsimile: 703-991-7120
if to HMI:	HMI, Inc 725 Galloway Drive Rockmart, Ga. 30153 Attn: Mark Lumpkin Phone: 678-758-1663

13.8. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

13.9. **No Third Party Beneficiaries.** Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the parties hereto and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

13.10. **Severability.** The parties agree that if one or more provisions contained in this Agreement shall be deemed or held to be invalid, illegal or unenforceable in any respect under any applicable law, this Agreement shall be construed with the invalid, illegal or unenforceable provision deleted, and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

13.11. **Schedules.** This Agreement is being executed and delivered prior to delivery of the Schedules hereto, and is subject to and contingent upon (i) delivery of all of RRP' Schedules in form and substance reasonably satisfactory to HMI, and (ii) delivery of all of HMI's Schedules in form and substance reasonably satisfactory to RRP, such

deliveries to be made by each of HMI and RRP within thirty (30) business days of the date of this Agreement. If RRP' Schedules are not delivered within such period, or are not reasonably satisfactory to HMI, then HMI may terminate this Agreement by notice to RRP made within ten (10) business days after the expiration of such thirty (30) business day period. If HMI's Schedules are not delivered within such period, or are not reasonably satisfactory to RRP, then RRP may terminate this Agreement by notice to HMI made within ten (10) business days after the expiration of such thirty (30) business day period. Each of HMI and RRP covenants to the other to deliver its Schedules within such thirty (30) business day period. Failure by a party to object to any schedules within the ten (10) business day period provided above shall constitute acceptance of such Schedules by such party.

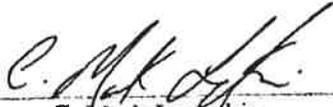
13.12. ***Entire Agreement.*** This Agreement embodies the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements and understandings relating to the matters provided for herein.

[ THIS SPACE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE IS NEXT ]

[SIGNATURE PAGE TO ASSET EXCHANGE AGREEMENT ]

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

HMI: HEIRBORN MINISTRIES, INC.

By:   
Name: C. Mark Lurpkin  
Title: President

RRP: ROME RADIO PARTNERS, LLC

By:   
Name: Howard C. Toole  
Title: Managing Member

## WROM - WZOT Schedules

### 1.1.1 - FCC Licenses

## EXHIBIT 1.1.1 – FCC LICENSES

### COMMISSION AUTHORIZATION(S) AND OTHER PERMITS, AUTHORIZATIONS, LICENSES

*Licensee: Rome Radio Partners, LLC*

CALL SIGN	COMMUNITY OF LICENSE	FACILITY ID No.	DESCRIPTION	FCC FILE NOS.	EXPIRATION DATE
WZOT(AM) <sup>1/</sup>	Rockmart, GA	7041	AM Main Station	BL-19831028AG BR-20111130CLM	4/1/2020

### COMMISSION AUTHORIZATION(S) AND OTHER PERMITS, AUTHORIZATIONS, LICENSES

*Licensee: Heirborn Ministries, Inc.*

CALL SIGN	COMMUNITY OF LICENSE	FACILITY ID No.	DESCRIPTION	FCC FILE NOS.	EXPIRATION DATE
WROM(AM)	Rome, GA	66283	AM Main Station	BML-20110719ADN BR-20111128CSE	4/1/2020
KE9143	<i>ditto</i>	<i>ditto</i>	Remote Pick-up	<i>ditto</i>	<i>ditto</i>

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<sup>1/</sup> There are no broadcast auxiliary stations associated with the WZOT main station license.