

**ASSET PURCHASE AGREEMENT**

**BY AND AMONG**

**BDI BROADCASTING, INC.,**

**BG BROADCASTING, INC.,**

**PAUL BUNYAN BROADCASTING CO.,**

**AND**

**BL BROADCASTING, INC.,**

**AND**

**HBI RADIO ALEXANDRIA, LLC,**

**HBI RADIO BEMIDJI, LLC,**

**AND**

**HBI RADIO BRAINERD/WADENA, LLC**

**TABLE OF CONTENTS**

ARTICLE 1 ASSETS .....2

    1.1 ASSETS AND REAL PROPERTY .....2

    1.2 EXCLUDED ASSETS.....3

    1.3 ASSUMPTION OF ONLY CERTAIN OBLIGATIONS.....4

    1.4 EXCLUDED LIABILITIES .....4

    1.5 ALLOCATION.....4

    1.6 REAL ESTATE, ENVIRONMENTAL AND ENGINEERING MATTERS.....5

ARTICLE 2 PURCHASE PRICE .....6

    2.1 PURCHASE PRICE AND ADJUSTMENT. ....6

    2.2 ADDITIONAL CLOSING PRORATIONS .....6

ARTICLE 3 CLOSING .....7

    3.1 GENERAL CLOSING PROCEDURES.....7

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF SELLER.....7

    4.1 ORGANIZATION AND STANDING; CAPITALIZATION.....7

    4.2 AUTHORIZATION AND BINDING OBLIGATION .....7

    4.3 ABSENCE OF CONFLICTING AGREEMENTS; CONSENTS.....8

    4.4 LITIGATION.....8

    4.5 STATION LICENSES.....8

    4.6 REAL PROPERTY.....9

    4.7 ENVIRONMENTAL MATTERS IN RESPECT OF THE REAL PROPERTY .....10

    4.8 CONTRACTS.....11

    4.9 COMPLIANCE WITH LAWS.....11

    4.10 BROKER’S FEES .....11

    4.11 TAXES.....11

    4.12 INSURANCE.....12

    4.13 PROPERTY .....12

    4.14 PERMITS AND RIGHTS.....12

    4.15 FINANCIAL STATEMENTS.....12

4.16	ABSENCE OF CERTAIN CHANGES.....	13
4.17	ABSENCE OF UNDISCLOSED LIABILITIES.....	13
4.18	EMPLOYMENT MATTERS.....	13
4.19	INTELLECTUAL PROPERTY.....	14
ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF BUYERS.....		15
5.1	ORGANIZATIONAL AND STANDING.....	15
5.2	AUTHORIZATION AND BINDING OBLIGATION.....	15
5.3	ABSENCE OF CONFLICTING AGREEMENTS OR REQUIRED CONSENTS.....	15
5.4	LITIGATION.....	16
5.5	FCC QUALIFICATIONS.....	16
5.6	FINANCING.....	16
5.7	BROKER’S FEES.....	16
ARTICLE 6 GOVERNMENTAL CONSENTS.....		16
6.1	FCC APPLICATIONS.....	16
ARTICLE 7 COVENANTS.....		17
7.1	CERTAIN COVENANTS.....	17
7.2	ACCESS.....	19
7.3	EXCLUSIVITY.....	19
7.4	CONFIDENTIALITY.....	19
7.5	FURTHER ASSURANCES.....	19
7.6	TRANSITION EFFORTS.....	20
7.7	PRESS RELEASES.....	20
7.8	CONSENTS.....	20
7.9	MONTHLY FINANCIAL REPORTS.....	20
7.10	TRANSFER OF SOCIAL MEDIA ACCOUNTS.....	20
7.11	UPDATES TO SCHEDULE OF EXCEPTIONS; PHASE I REVIEWS.....	20
ARTICLE 8 CONDITIONS PRECEDENT.....		21
8.1	TO BUYERS’ OBLIGATIONS REGARDING CLOSING.....	21
8.2	TO SELLERS’ OBLIGATIONS.....	23
ARTICLE 9 DOCUMENTS TO BE DELIVERED AT THE CLOSING.....		24

9.1	DOCUMENTS TO BE DELIVERED BY SELLERS .....	24
9.2	DOCUMENTS TO BE DELIVERED BY BUYERS .....	26
ARTICLE 10	INDEMNIFICATION.....	27
10.1	SELLERS' INDEMNITIES.....	27
10.2	BUYERS' INDEMNITIES.....	27
10.3	PROCEDURE FOR INDEMNIFICATION .....	27
10.4	LIMITATIONS.....	29
10.5	SURVIVAL .....	30
10.6	EXCLUSIVE REMEDIES FOLLOWING THE CLOSING .....	31
10.7	GENERAL.....	31
10.8	SPECIFIC PERFORMANCE.....	31
10.9	LIQUIDATED DAMAGES .....	31
10.10	ESCROW .....	31
ARTICLE 11	TERMINATION RIGHTS .....	32
11.1	TERMINATION.....	32
11.2	EFFECTS OF TERMINATION.....	33
ARTICLE 12	OTHER AGREEMENTS .....	33
12.1	ACCESS TO BOOKS AND RECORDS AND RECORDS RETENTION.....	33
12.2	SUBJECT EMPLOYEES.....	33
12.3	OFFERS OF EMPLOYMENT .....	34
12.4	COBRA OBLIGATIONS.....	34
12.5	401(K) PLAN.....	34
12.6	HEALTH AND WELFARE BENEFITS .....	34
12.7	NON-SOLICITATION.....	35
12.8	NON-COMPETITION .....	35
ARTICLE 13	OTHER PROVISIONS.....	36
13.1	TRANSFER TAXES AND EXPENSES.....	36
13.2	BENEFIT AND ASSIGNMENT.....	36
13.3	ADDITIONAL DOCUMENTS.....	36
13.4	ENTIRE AGREEMENT; SCHEDULES; AMENDMENT; WAIVER.....	36
13.5	HEADINGS .....	37

13.6	COMPUTATION OF TIME.....	37
13.7	GOVERNING LAW.....	37
13.8	VENUE.....	37
13.9	ATTORNEYS' FEES.....	37
13.10	SEVERABILITY.....	37
13.11	NOTICES.....	38
13.12	NO RECOURSE.....	38
13.13	CASUALTY.....	39
13.14	COUNTERPARTS.....	39
13.15	FACSIMILE OR PDF SIGNATURES.....	39
ARTICLE 14 DEFINITIONS.....		39
14.1	DEFINED TERMS.....	39

## **SCHEDULES AND EXHIBITS**

Schedule 1.1(a)	FCC Licenses
Schedule 1.1(b)	Real Property
Schedule 1.1(c)	Personal Property
Schedule 1.1(d)	Material Assumed Contracts
Schedule 1.1(e)	Station Intellectual Property
Schedule 1.2(g)	Personal Property Excluded Assets
Schedule 1.6(b)	Real Property Subject to Phase I Reviews
Schedule 4.3(b)	Consents
Schedule 4.5	Antenna Registration Numbers
Schedule 4.6(b)	Real Estate Leases
Schedule 4.11	Tax Matters
Schedule 4.12	Property Insurance Summary
Schedule 4.18(a)	Employee Benefits
Schedule 4.18(b)	Exceptions to At-Will Employment
Schedule 4.19(a)	Exceptions to Station Intellectual Property
Schedule 4.19(b)	Station Intellectual Property Registrations
Schedule 4.19(c)	Station Intellectual Property Claims
Schedule 8.1(d)	Required Consents
Schedule 12.2	Employee Information
Exhibit A	Form of Escrow Agreement
Exhibit B	Reserved
Exhibit C	Form of FCC License Assignment
Exhibit D	Form of Bill of Sale
Exhibit E	Form of Assignment/Assumption Agreement
Exhibit F	Form of Deed
Exhibit G	Form of Lease Estoppel

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (“**Agreement**”) is made as of the 13th day of November, 2014, by and among BDI Broadcasting, Inc., a Minnesota corporation (“**BDI Broadcasting**”), BG Broadcasting, Inc., a Minnesota corporation (“**BG Broadcasting**”), Paul Bunyan Broadcasting Co., a Minnesota corporation (“**Bunyan Broadcasting**”), BL Broadcasting, Inc., a Minnesota corporation (“**BL Broadcasting**,” and together with BDI Broadcasting, BG Broadcasting and Bunyan Broadcasting, the “**Sellers**,” and each a “**Seller**”), on the one hand, and HBI Radio Alexandria, LLC, a Delaware limited liability company (“**HBI Alexandria**”), HBI Radio Bemidji, LLC, a Delaware limited liability company (“**HBI Bemidji**”), and HBI Radio Brainerd/Wadena, LLC, a Delaware limited liability company (“**HBI Brainerd/Wadena**,” and together with HBI Alexandria and HBI Bemidji, the “**Buyers**,” and each a “**Buyer**”), on the other. Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in Article 14 of this Agreement.

### RECITALS

**WHEREAS**, Sellers own and operate the following radio stations (each a “**Station**,” and collectively, the “**Stations**”):

1. KIKV-FM, 100.7 MHz, Sauk Centre, MN
2. KULO(FM), 94.3 MHz, Alexandria, MN (the foregoing Stations 1 - 2 are referred to collectively as the “**Alexandria Stations**”)
3. KKZY(FM), 95.5 MHz, Bemidji, MN
4. KLLZ-FM, 99.1 MHz, Walker, MN
5. WQXJ(FM), 104.5 MHz, Blackduck, MN
6. KBHP(FM), 101.1 MHz, Bemidji, MN
7. KBUN(AM), 1450 kHz, Bemidji, MN
8. K235BP, 94.9 MHz, Bemidji, MN (the foregoing Stations 3 - 8 are referred to collectively as the “**Bemidji Stations**”)
9. KLIZ-FM, 107.5 MHz, Brainerd, MN
10. WJJY-FM, 106.7 MHz, Brainerd, MN
11. KBLB(FM), 93.3 MHz, Nisswa, MN
12. KUAL(FM), 103.5 MHz, Brainerd, MN
13. KLIZ(AM), 1380 kHz, Brainerd, MN
14. KVBR(AM), 1340 kHz, Brainerd, MN
15. KKWS(FM), 105.9 MHz, Wadena, MN
16. KWAD(AM), 920 kHz, Wadena, MN
17. KNSP(AM), 1430 kHz, Staples, MN (the foregoing Stations 9 - 17 are referred to collectively as the “**Brainerd/Wadena Stations**”); and

**WHEREAS**, Sellers are the holders of the licenses and authorizations issued by the Federal Communications Commission (the “*FCC*”) for the operation of the Stations; and

**WHEREAS**, subject to the terms and conditions of this Agreement, Sellers desire to sell and Buyers desire to purchase substantially all of Sellers’ assets.

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the Parties hereby agree as follows:

### **ARTICLE 1 ASSETS**

**1.1 *Assets and Real Property.*** On the terms and subject to the conditions set forth in this Agreement, on the Closing Date Sellers shall sell, assign, transfer, convey and deliver, free and clear of all Liens, other than Permitted Liens, all assets, properties and rights of Sellers other than the Excluded Assets (collectively, the “*Assets*”), to the Buyers as follows: (i) BDI Broadcasting shall sell, assign, transfer, convey and deliver all Assets used or held in connection with the operation of the Alexandria Stations to HBI Alexandria; (ii) BG Broadcasting and Bunyan Broadcasting shall sell, assign, transfer, convey and deliver all Assets used or held in connection with the operation of the Bemidji Stations to HBI Bemidji; and (iii) BL Broadcasting shall sell, assign, transfer, convey and deliver all Assets used or held in connection with the operation of the Brainerd/Wadena Stations to HBI Brainerd/Wadena. The Assets shall include, but not be limited to, the following:

(a) All licenses, permits and other authorizations issued to Sellers by the FCC relating to the Stations, including those licenses, permits and other authorizations listed on Schedule 1.1(a) attached hereto, together with renewals or modifications thereof between the date hereof and the Closing Date (collectively, the “*FCC Licenses*”);

(b) All right, title and interest held by Sellers in and to the owned real property listed on Schedule 1.1(b) attached hereto including Sellers’ interests in (i) all buildings, structures, and improvements located on such property, (ii) all easements or other appurtenances for the benefit of such property, and (iii) such additional buildings, structures, improvements and interests in such property made or acquired between the date of this Agreement and the Closing Date (the “*Owned Real Property*”), leases and other leasehold interests, easements, and real property licenses and options related to the Stations and listed on Schedule 1.1(b) attached hereto (collectively, the “*Leased Real Property*,” and, together with the Owned Real Property, the “*Real Property*”);

(c) All studio and office equipment and furniture, fixtures, materials and supplies, fixed assets, production equipment, computers, computer servers, telephone systems, personal computing devices and cellphones, leasehold improvements, inventories, vehicles, towers, transmitters, antennas, receivers, and spare parts used in the operation of the Stations,

together with replacements thereof and additions thereto made between the date of this Agreement and the Closing Date (collectively, the “**Personal Property**”);

(d) All Contracts of Sellers relating to the Stations other than the Excluded Contracts (the “**Assumed Contracts**”), including without limitation (i) those Contracts with an annual cost of at least Ten Thousand Dollars (\$10,000) per year or Fifty Thousand Dollars (\$50,000) over the term of the Contract and all other Contracts otherwise material to the operation of the Stations, and (ii) the Real Estate Leases (together, the “**Material Assumed Contracts**”), which are set forth on Schedule 1.1(d) hereto;

(e) All of Sellers’ right, title and interest in and to all Intellectual Property owned or held by Sellers, all in whatever form or medium, including all goodwill, if any, associated with the foregoing, used in the operation of, used by, or related to the Stations, including, without limitation, the items listed on Schedule 1.1(e) hereto (the “**Station Intellectual Property**”);

(f) A copy or original of each Station’s public inspection file, all records required by the FCC to be kept by the Stations, all records relating to the Personal Property, and any technical information, engineering data, logs, and, to the extent transferable, rights under manufacturers’ warranties as they exist at the Closing and related to the Assets;

(g) Electronic or paper copies of all books and records related to the Stations and their current operation, including without limitation proprietary information, financial data and information relating to the current operation of the Stations, technical information and data, operating manuals, data, studies, records, reports, ledgers, files, correspondence, computer files, plans, diagrams, blueprints and schematics for the Stations as currently operated and including computer readable disk or tape copies of any items stored on computer files (collectively, the “**Books and Records**”);

(h) All Permits of Sellers used to operate the Stations and conduct the business of the Stations, to the extent transferable; and

(i) All goodwill associated with the Assets and the business of the Stations.

**1.2 Excluded Assets.** The following assets of Sellers shall not be transferred to Buyers hereunder (collectively, the “**Excluded Assets**”):

(a) All cash, cash equivalents, and related bank and investment accounts;

(b) All Accounts Receivable;

(c) Any insurance policies, and any cash surrender value in regard thereto, of any Seller;

(d) Any pension, profit-sharing or deferral (Section 401(k)) plans and trusts and assets thereof, or any other employee benefit plan or arrangement, and the assets thereof;

- (e) Any interest in and to any refunds of Taxes of Sellers for periods prior to the Closing;
- (f) The corporate records of each Seller, including, but not limited to, transfer books; and
- (g) Items of Personal Property listed on Schedule 1.2(g).

**1.3 Assumption of Only Certain Obligations.** On the Closing Date, Buyers shall assume and agree to perform when due only the liabilities or obligations of Sellers under the Assumed Contracts to the extent such liabilities or obligations first accrue or are first required to be satisfied, discharged or performed after the Closing Date, and excluding in all cases any liability or obligation arising directly or indirectly from any breach or default under any Assumed Contract occurring on or prior to the Closing Date (after giving effect to such exclusion, the “**Assumed Liabilities**”).

**1.4 Excluded Liabilities.** Except for the Assumed Liabilities, Buyers shall not and do not assume or agree to become liable for or successor to any Liabilities of or relating to Sellers, the Stations, or any of Sellers’ Affiliates (collectively, the “**Excluded Liabilities**”). For the avoidance of doubt, the Excluded Liabilities specifically include, without limitation, the Accounts Payable and all Liabilities of any Seller under any Company Plans. All Excluded Liabilities shall be and remain the obligations of the Sellers, and Buyers shall not be obligated in any respect therefor. Following the Closing, Sellers shall continue to pay and perform the Excluded Liabilities as they may become due.

**1.5 Allocation.** After the Closing, Buyers shall select and retain a firm to conduct an independent appraisal of the Assets and to prepare a proposed allocation of the Purchase Price among the Assets for each Seller for tax and financial accounting purposes. Buyers shall be responsible for the cost of such appraisal and allocation. Buyers shall deliver the appraisal and the proposed allocation to Sellers as soon as practicable and in any event within one hundred twenty (120) days following Closing. If any Seller notifies any Buyer in writing that it objects to one of more items reflected in the proposed allocation, Sellers and Buyers shall negotiate in good faith to resolve such dispute. If the parties are unable to resolve the dispute within thirty (30) days of an objection notice, the Sellers and the Buyers will jointly retain Kern DeWenter Viere, Ltd. (the “**Accounting Firm**”) to resolve any disputes. The Sellers and the Buyers will direct the Accounting Firm to render a determination within thirty (30) days of its retention and will cooperate with the Accounting Firm during the engagement. The Accounting Firm shall not be bound by the original appraisal prepared on behalf of Buyers. The decision of the Accounting Firm shall be binding upon all Parties. The costs of the Accounting Firm shall be paid one half by the Sellers (in proportion to the cash Purchase Price paid to each Seller) and one half by the Buyers. Buyers and Sellers agree that the cash paid at Closing shall be allocated first to the tangible Personal Property up to the amount of Purchase Price allocated to Personal Property and that the Escrow Amount shall be allocated proportionately to each Seller in proportion to the Purchase Price allocated to such Seller. Buyers and Sellers (i) shall execute and file all Tax returns and prepare all financial statements, returns and other instruments in a manner consistent

with the allocation of the Purchase Price among the Assets as determined pursuant to this Section 1.5, and (ii) shall cooperate with each other in the timely filing, consistent with such allocation, of Form 8594 with the IRS.

**1.6 Real Estate, Environmental and Engineering Matters.**

(a) Within thirty (30) days after the date of this Agreement, Sellers shall deliver or cause to be delivered to Buyers:

(i) at Sellers' expense, one or more commitments from First American Title Insurance Company (the "**Title Company**") for one or more ALTA 2006 owner's policies of title insurance committing the Title Company to insure fee title to the Owned Real Property and the leasehold interest in the Leased Real Property, as applicable, subject only to the Permitted Encumbrances, along with copies of all documents or instruments listed on Schedule B to any such commitment and search results relating to any levied or pending special assessments with respect to each parcel of the applicable Real Property (collectively, the "**Title Commitments**"); and

(ii) any Phase I environmental site assessments or other reports in Sellers' possession on the environmental condition of the Real Property.

(b) Subject to Section 7.2, Buyers are expressly permitted to perform certain technical and environmental due diligence on Real Property and facilities of the Sellers, and Sellers shall cooperate with Buyers and facilitate such due diligence, as set forth in this Section 1.6(b).

(i) For each of the Alexandria Stations, the Bemidji Stations, and the Brainerd/Wadena Stations, on or before November 30, 2014, upon reasonable advance notice by Buyers, Sellers shall provide Buyers' technical consultant ("**Buyers' Consultant**") access to the Stations' broadcast and studio facilities and Buyers' Consultant shall be permitted to review and perform customary engineering tests on Sellers' equipment and broadcast signals.

(ii) Buyers are expressly permitted to conduct Phase I environmental site assessments on the Owned Real Property and on the Leased Real Property described in Schedule 1.6(b) (each a "**Phase I Review**"). Prior to Closing, Buyers shall not be permitted to perform any invasive testing, including, but not limited to, Phase II environmental testing or soil borings, without the prior written consent of the Sellers, which consent shall not be unreasonably conditioned or withheld.

(iii) Buyers shall restore the facilities and Real Property to substantially the same condition that they were in prior to testing and inspection pursuant to Sections 1.6(b)(i) and 1.6(b)(ii).

(c) At any time after the date of this Agreement, Buyers may obtain, at Buyers' expense, a current ALTA survey for any parcel of Real Property (in each case a

“*Survey*,” and, together with the applicable Title Commitment as to each parcel of Real Property, the “*Title Evidence*”).

## **ARTICLE 2 PURCHASE PRICE**

### **2.1 *Purchase Price and Adjustment.***

(a) Purchase Price. The purchase price for the Assets shall be Eight Million Dollars (\$8,000,000) (the “*Purchase Price*”). On the Closing Date, Buyers shall pay the Sellers Seven Million Five Hundred Thousand Dollars (\$7,500,000).

(b) Deposit. On the date hereof, Buyers shall provide by wire transfer of immediately available funds for deposit into escrow with U.S. Bank National Association (the “*Escrow Agent*”) the sum of Five Hundred Thousand Dollars (\$500,000) (the “*Escrow Amount*”) pursuant to the terms of an Escrow Agreement (the “*Escrow Agreement*”) among Buyers, Seller, and Escrow Agent in the form attached hereto as Exhibit A, executed on the date hereof and incorporated herein by reference. The terms of the Escrow Agreement shall provide for the treatment of the Escrow Amount in the event the Closing does not occur under certain circumstances as well as in the event a Closing does occur, as set forth below.

(c) Pre-Closing Treatment of the Escrow Amount. The Escrow Amount shall be released to (i) Sellers in the event this Agreement is terminated by Sellers pursuant to Section 11.1(a)(i) or Section 11.1(c); or (ii) Buyers in the event this Agreement is terminated by any Party for any other reason. In the event of any termination of this Agreement, the Parties shall promptly execute joint written instructions to the Escrow Agent authorizing release of the Escrow Amount in accordance with this subsection.

(d) Post Closing Escrow. The Escrow Amount shall be available to any Buyer Indemnified Parties to satisfy any Loss or Losses to which a Buyer Indemnified Party is entitled under Article 10 (Indemnification), in accordance with the terms of the Escrow Agreement. On the date that is twelve (12) months following the Closing Date (the “*Escrow Termination Date*”), the remaining balance of the Escrow Amount, together with all earnings in respect of that portion of the Escrow Amount that is being disbursed by the Escrow Agent as of that date, shall be paid to the Sellers by wire transfer of immediately available funds to an account designated by Sellers, less such Losses paid to any Buyer Indemnified Party and less the amount of any reasonable reserve for pending claims for Losses. Earnings on the Escrow Amount shall be reported under the name of the party to whom such interest is disbursed. All fees of the Escrow Agent shall be paid by Buyers.

### **2.2 *Additional Closing Prorations.***

(a) Certain Real Estate Expenses. General real estate taxes due and payable with respect to the Owned Real Property in the year prior to the year of Closing and all prior years will be paid by Sellers. Sellers shall pay on or before the Closing Date all special

assessments due as of the Closing Date with respect to the Owned Real Property, with Buyer being responsible for all special assessments levied, pending, or deferred but not yet due as of the Closing Date. General real estate taxes due and payable with respect to the Owned Real Property in the year of Closing, and all utility and other service costs associated with the Owned Real Property and, to the extent such taxes or costs are the responsibilities of Sellers, the Leased Real Property, shall be prorated between Buyers and Sellers as of the Closing Date.

(b) Real Property Closing Costs. Sellers shall pay all Transfer Taxes, including but not limited to State deed tax, and all costs of recording any title clearance documents required for the issuance of the title insurance policies contemplated herein. Buyers shall pay all cost of recording the deeds and other instruments of conveyance of the Owned Real Property from Sellers to Buyers. Sellers shall pay the costs of the Title Commitments. Buyers shall pay the premiums charged in connection with the issuance of any title insurance policy. Buyers and Sellers shall share equally any closing fee charged by the Title Company.

### **ARTICLE 3 CLOSING**

**3.1 General Closing Procedures.** The consummation of the sale and purchase of the Assets pursuant to this Agreement (the “**Closing**”) shall take place as soon as practicable after, but no later than the first day of the month following the month during which the conditions set forth in Sections 8.1 and 8.2 (other than any such conditions which by their terms cannot be satisfied until the Closing Date, which shall be required to be so satisfied or waived) are satisfied or waived (subject to applicable Law) (the “**Closing Date**”), at a mutually agreeable time and location, or by electronic exchange of signatures, with required deliveries and payments; provided, however, that the Parties agree that the Closing Date shall not be earlier than January 1, 2015.

### **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF SELLER**

Sellers hereby jointly and severally represent and warrant to Buyers that, subject to the specific terms herein and to the disclosures in the schedules referenced in this Article 4 (the “**Schedule of Exceptions**”), the following representations and warranties are true and correct as of the date of this Agreement:

**4.1 Organization and Standing; Capitalization.** Each Seller (i) is a corporation duly formed, validly existing and in good standing under the laws of the State of Minnesota (ii) is qualified to do business in all jurisdictions required by Law, and (iii) has all necessary corporate power and authority to own, operate and lease its own Assets and to carry on the business of its Stations.

**4.2 Authorization and Binding Obligation.** Each Seller has all necessary corporate power and authority to enter into and perform its obligations under this Agreement and the Related Documents and to consummate the transactions contemplated hereby and thereby. This

Agreement and the Related Documents have been, and each of the other documents contemplated hereby at or prior to Closing will be, duly executed and delivered by Sellers and have been approved by all necessary corporate action. This Agreement constitutes (and each of the other Related Documents, when executed and delivered, will constitute) valid and binding obligations enforceable against Sellers in accordance with their terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or the availability of equitable remedies.

**4.3 Absence of Conflicting Agreements; Consents.**

(a) The execution, delivery and performance of this Agreement and the Related Documents by Sellers do not and will not: (i) violate any provisions of the Organizational Documents of any Seller; (ii) violate any applicable Law or Order; (iii) constitute a default or breach under, or accelerate or permit the acceleration of any performance required by, the terms of any Assumed Contracts; or (iv) create any Lien upon any of the Assets.

(b) Except for the FCC Consents, and except as set forth in Schedule 4.3(b), no approval or consent of, or notice or filing with, any Person or any Governmental Authority is or was required to be obtained by any Seller for the authorization of this Agreement or the Related Documents or the execution, delivery, performance and consummation by any Seller of the transactions contemplated by this Agreement and the Related Documents.

**4.4 Litigation.** There are no claims, litigation, arbitrations or other Proceedings that are pending, have been served upon, or have been threatened against any Seller with respect to the Assets, any Seller, any Station or the transactions contemplated by this Agreement.

**4.5 Station Licenses.**

(a) Schedule 1.1(a) contains a true and complete list of the FCC Licenses used or held for use in connection with the operation of the Stations as currently operated. Each of the holders of the FCC Licenses identified on Schedule 1.1(a) is the authorized legal holder of such FCC Licenses. The Stations and the facilities of the Stations are being and have been operated at all times in compliance with the FCC Licenses, the Communications Act and all FCC rules and policies. The FCC Licenses are all of the FCC licenses, permits and authorizations required for the operation of the Stations as presently operated.

(b) Except for proceedings affecting the radio broadcasting industry generally, there are no applications, petitions, complaints, investigations, notices of violations, notices of apparent liability, pending license terminations, forfeitures, proceedings or other actions pending or, to Sellers' Knowledge, threatened from or before the FCC relating to any Station or any FCC License and no Seller has filed with the FCC any applications or petitions relating to any Station or any FCC License which are pending before the FCC.

(c) The Assets owned by Sellers are in compliance with all rules and regulations of the Federal Aviation Administration applicable to the Stations. Each tower and

antenna structure associated with the Stations that is required to be registered with the FCC has been registered with the FCC. Schedule 4.5 contains a list of the antenna registration numbers for each tower owned or leased by any Seller (and included in the Assets) that requires registration under the rules and regulations of the FCC. All reports and other filings required by the FCC with respect to each Station have been properly and timely filed.

(d) The operation of the Stations does not expose workers or others to levels of radio frequency radiation in excess of the “Radio Frequency Protection Guides” recommended in “American National Standard Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields 3 kHz to 300 GHz” (ANSI/IEEE C95.1 - 1992), issued by the American National Standards Institute, and renewal of the FCC Licenses would not constitute a “major action” within the meaning of Section 1.1301 *et seq.*, of the FCC’s rules.

(e) All reports and statements that any Seller is required to file with the FCC in respect of each Station have been filed, and all reporting requirements of the FCC have been complied with.

#### **4.6 Real Property.**

(a) Real Property. The Sellers have good and marketable fee title to the Owned Real Property and valid leasehold interests in the Leased Real Property, in each case free and clear of all Liens and encumbrances, except Permitted Liens and Permitted Encumbrances. The Real Property constitutes all real property rights and interests necessary to enable Seller to operate the Stations as currently operated. No Seller has granted any options or rights to any party to purchase any ownership or other interest in any parcel of the Owned Real Property. No Seller has received written notice of any Proceeding for condemnation or other taking by any public authority. No Seller has received any written notice from any Governmental Authority claiming any of the Real Property or the current use thereof by any Seller is in violation of any applicable zoning Laws.

(b) List of Leases. The real property lease agreements, including tower leases and antenna leases, and licenses set forth on Schedule 4.6(b) are the only real property leases to which any Seller is a party either as lessor, licensor, lessee or licensee and that relate to the business of the Stations (the “**Real Estate Leases**”). Sellers have furnished to Buyers true and complete copies of the Real Estate Leases, along with all modifications and amendments thereto. There are no oral agreements between any Seller and any landlord or lessor under any of the Real Estate Leases.

(c) Leased Real Property. With respect to the real property and improvements subject to the Real Estate Leases: (1) each applicable Seller is the owner and holder of the entire interest in the leasehold estate purported to be granted by the Real Estate Leases; (ii) the Real Estate Leases create valid leasehold title in the Leased Real Property and constitute legal, valid and binding obligations of the applicable Seller and, to Sellers’ Knowledge, the respective landlords, enforceable in accordance with their respective terms; and (iii) except as set forth in the Schedule of Exceptions, there are no defaults currently existing by Sellers or, to Sellers’

Knowledge, landlords, under any of the Real Estate Leases, no written notices of default have been received by any Seller which have not been cured, and no events have occurred that with the lapse of time, notice, or otherwise would constitute a default under any of the Real Estate Leases.

(d) Improvements. All Real Property is properly zoned for its current uses and all improvements located on the Real Property are in compliance with all applicable Laws, including but not limited to applicable zoning ordinances, and rules and regulations of the FCC, and rules and regulations of the Federal Aviation Administration. No Seller has received any written notice from any Governmental Authority claiming any improvements (including buildings and other structures) on the Real Property are in violation of applicable Laws. All improvements (including buildings and other structures) on the Real Property are in good operating condition and repair, normal wear and tear excepted.

(e) Utilities. All Real Property is served by utilities sufficient for the operation of the Stations, as such operations are presently conducted.

(f) Special Assessments. There are no pending or deferred special assessments relating to any Real Property.

#### **4.7 *Environmental Matters in Respect of the Real Property.***

(a) Sellers have received no notice of any unresolved alleged violation of and, to Sellers' Knowledge, there is no existing violation of any Law pertaining to environmental matters affecting any Owned Real Property or any of the Leased Real Property described on Schedule 1.6(b), including those arising under the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, the Superfund Amendments and Reauthorization Act of 1986, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, as amended, the Federal Clean Air Act, the Toxic Substances Control Act, or any federal, state or local statute, regulation, ordinance, order or decree relating to the environment or public health (hereinafter collectively "***Environmental Laws***");

(b) Sellers have not used or stored Hazardous Substances at the Real Property in material violation of Environmental Laws;

(c) Sellers have not used the Real Property for and, to Sellers' Knowledge, no portion of any of the Real Property has been used for the business of handling, manufacturing, processing, storage or disposal of Hazardous Substances in violation of Environmental Laws;

(d) To Sellers' Knowledge, there has been no release (i.e., any past or present release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, disposing or dumping) or threatened release of Hazardous Substances on, upon, into or from any of the Real Property that would require any response actions or cleanup under Environmental Laws;

(e) No portion of the Real Property is subject to any pending Order from or agreement with any Governmental Authority with respect to any Seller regarding any Environmental Laws;

(f) There are no wells, operating or abandoned, located on the Owned Real Property;

(g) No portion of the Owned Real Property is served by a private septic system; and

(h) There are no above-ground or underground storage tanks on the Owned Real Property, and no such tanks have been removed during Sellers' ownership or occupancy of the Real Property.

**4.8 Contracts.** The Material Assumed Contracts and the Excluded Contracts constitute all of the material Contracts to which any Seller is a party that relate to the current business of the Stations. Each of the Assumed Contracts constitutes a legal, valid and binding obligation of the applicable Seller and each other party thereto, and is enforceable by each applicable Seller in accordance with its terms, except as limited by Laws affecting creditor's rights or equitable principles generally. Neither any Seller nor, to the Knowledge of Sellers, any other party thereto, is in any respect in default under any Assumed Contract. Except as set forth on Schedule 4.3(b), no approval or consent of, or notice to, any Person is required for the assignment of the Assumed Contracts by Sellers to Buyers. Except as set forth on Schedule 4.3(b), no Seller is now, nor has any Seller been at any time during the two years preceding the date of this Agreement, a party to any Contract with a Governmental Entity, nor has any Seller fulfilled any advertising placement or other similar purchase order for any Governmental Entity within such time period, in each case with a value of \$50,000 or more.

**4.9 Compliance with Laws.** In the four (4) years prior to the date hereof, each Seller has been in compliance with all Laws and/or Orders where any failure to so comply would have a Material Adverse Effect. No Seller has received any notice asserting any noncompliance with any Law or Order relating to the Assets or in connection with the operation of any Station that has not been resolved. Except as set forth in the Schedule of Exceptions, there is no pending or, to Sellers' Knowledge, threatened, Proceeding involving any Station or any Seller with respect to the business and operations of any Station, and no Seller is subject to any Order, agreement, memorandum of understanding or other regulatory enforcement action or proceeding with or by the FCC or any other Governmental Authority.

**4.10 Broker's Fees.** Sellers are represented by Patrick Communications, LLC as the Sellers' broker. Sellers are solely responsible for all fees, commissions or other compensation owed to said broker.

**4.11 Taxes.** All federal, state, local and other Tax Returns required to be filed by Sellers have been timely filed, and all Taxes shown on such Tax Return or assessment as being due and payable have been paid; no extensions of time with respect to the filing date of any Tax

Return is now in force; and no waiver or extension has been granted with respect to any period of limitations affecting assessment of any Tax. Except as otherwise disclosed on Schedule 4.11, all such Tax Returns are true, complete and correct in all material respects; no deficiency in payment of any Taxes related to the Assets for any period has been asserted by any taxing authority which remains unsettled as of the date hereof, and no written inquiries have been received from any taxing authority with respect to possible claims for taxes or assessments on the Assets that remains unresolved.

**4.12 Insurance.** Sellers maintain insurance policies or other arrangements with respect to the Stations and the Assets consistent with industry practice (other than media liability errors and omissions insurance, which some participants in the industry maintain), including coverage of all buildings, towers, antennas, dishes, transmission lines, transmitters and other Assets used in the operation of the Stations. Schedule 4.12 sets forth a true and correct summary of the property insurance policies or arrangements with respect to the Stations and the Assets, setting forth for each such policy (i) the insurer, (ii) the insured, (iii) amount of coverage, (iv) type of insurance, and (v) the expiration date of such policy.

**4.13 Property.** Sellers have good and marketable title to the Assets free and clear of Liens, other than (i) Permitted Liens, (ii) Liens held by the First National Bank of Bemidji which will be released prior to or concurrent with the Closing, and (iii) in the case of Owned Real Property, Permitted Encumbrances. Sellers own and possess valid leasehold interests in all leasehold estates comprising the Leased Real Property. All items of Personal Property are in good operating condition, ordinary wear and tear excepted and are suitable for the purpose for which such items are presently used, and are in conformity with all applicable Laws. All tangible Assets are in the possession or control of Sellers. The Assets are sufficient for the continued operation of the Stations after the Closing in substantially the same manner as operated prior to the Closing and constitute all of the rights, properties and assets necessary to the operation of the Stations as currently operated.

**4.14 Permits and Rights.** Sellers possess all Permits that are necessary to permit Sellers to engage in the business of the Stations as presently conducted in and at all locations and places where they are presently operating and conducting the business of the Stations. The FCC licenses and material Permits are listed on Schedule 1.1(a).

**4.15 Financial Statements.** Copies of the (i) compiled balance sheets of each Seller as of December 31, 2013 and 2012, and the related statements of retained earnings, income and cash flows for the years then ended (the “**Reviewed Financial Statements**”), and (ii) compiled balance sheets of each Seller as of June 30, 2014 and the related statements of income for the six-month period then ended (the “**Interim Financial Statements**” and together with the Reviewed Financial Statements, the “**Financial Statements**”) have been delivered or made available to Buyers. Except as otherwise noted therein, the Financial Statements have been prepared in accordance with GAAP applied on a consistent basis throughout the periods involved, subject, in the case of the Interim Financial Statements, to normal and recurring year-end adjustments. The Financial Statements fairly present in all material respects the financial

condition of the Sellers as of the respective dates they were prepared and the results of the operations thereof for the periods indicated.

**4.16 Absence of Certain Changes.** From January 1, 2014 to the date hereof, (i) Sellers have conducted the business of the Stations in the Ordinary Course of Business of the Stations, and (ii) there has not been any Material Adverse Effect affecting the business or operations of the Stations.

**4.17 Absence of Undisclosed Liabilities.** Except as set forth on the Interim Financial Statements, and other than continuing obligations of performance under terms of Assumed Contracts, Sellers are not obligated for, nor are the Assets subject to, any Liabilities that affect the Assets or the business of the Stations, except those incurred in the Ordinary Course of Business of the Stations since June 30, 2014 and except for any that would not have a Material Adverse Effect.

**4.18 Employment Matters.**

(a) Schedule 4.18(a) contains a correct and complete list identifying each material (i) “employee benefit plan,” as defined in Section 3(3) of ERISA, (ii) health or medical benefits, (iii) vacation, sick leave, severance or fringe benefits, (iv) life or disability insurance benefits, and (v) stock options, stock appreciation rights, phantom stock programs, nonqualified deferred compensation arrangements, and any other executive or employee benefit, that is maintained, administered or contributed to by Sellers and that covers any employee of Sellers, or with respect to which Sellers have any material Liability (collectively, the “**Company Plans**”). Schedule 4.18(a) also sets forth all continuation benefits provided by any Seller to Subject Employees after termination of employment other than as required under Section 4980B of the Code, or similar provision of applicable state Law.

(b) Except as set forth on Schedule 4.18(b), the employment by Sellers of any Person (not subject to a written employment agreement) is at-will employment.

(c) Sellers have paid in full or accrued, with respect to all of their Subject Employees, all direct and indirect compensation of any kind for all services performed by each of them to the date of this Agreement. All contributions which are due under each Company Benefit Plan have been made by the due date thereof or within the grace period allowed therefor and all contributions for any period ending on or before the Closing Date which are not yet due or paid have been paid or properly accrued in the Financial Statements in accordance with applicable Law. All premiums or other payments for periods ending on or before the Closing Date have been paid with respect to each Company Benefit Plan.

(d) Neither Sellers nor any ERISA Affiliate nor any predecessor thereof contributes to, or has in the past contributed to, (i) any multiemployer plan, as defined in Section 3(37) of ERISA, (ii) any plan subject to Title IV of ERISA; (iii) an employee stock ownership plan within the meaning of Section 4975(e)(7) of the Code; or (iv) a multiple employer plan.

“ERISA Affiliate” of any entity means any other entity that, together with such entity, would be treated as a single employer under Section 414 of the Code.

(e) Each of the Company Plans has been established, operated and administered in material compliance with its terms and applicable Law, including but not limited to ERISA and the Code.

(f) Schedule 12.2 lists each employee of any of Sellers as of the date of this Agreement, together with each such employee’s job title; the location of employment; current compensation rate; whether such employee participates in the health insurance and 401(k) plans of any Seller, and whether such employee is an at-will employee or has a written employment agreement for something other than at-will employment.

(g) None of Sellers are, nor has any Seller been in the past five years, a party to, bound by, or negotiating any collective bargaining agreement or other contract or agreement with a union, works council or labor organization (collectively, “*Union*”), and there is not, and has not been for the past five years, any Union representing or purporting to represent any employee of any Seller, and no Union or group of Sellers’ employees, to Sellers’ Knowledge, is seeking or has sought to organize employees for the purpose of collective bargaining. Since January 1, 2012, there has never been, nor has there been any threat of, any strike, slowdown, work stoppage, lockout, concerted refusal to work overtime or other similar labor disruption or dispute affecting any Seller or any of their employees. No Seller has any duty to bargain with any Union.

#### **4.19 *Intellectual Property.***

(a) Except as set forth on Schedule 4.19(a), (i) each Seller is the owner or licensee of, with all right, title and interest in and to (free and clear of any Liens), or otherwise possesses, the right to use the Station Intellectual Property, and, to Sellers’ Knowledge, (ii) the Station Intellectual Property and the business of each Seller and the Stations do not infringe or violate any Intellectual Property of other Persons.

(b) Schedule 4.19(b) sets forth a list of all registrations and applications for registration of each Seller’s owned Station Intellectual Property used in the business of the Stations, and specifies, where applicable, the jurisdictions of such registrations and applications, registration or application numbers and the names of all registered owners, and any filing deadlines for responses, affidavits or renewals. Schedule 1.1(d) sets forth a list of all material licenses, sublicenses and other agreements to which any Seller is a Party that relate to the business of the Stations and pursuant to which any Seller or any other Person is authorized to use or license the use of any Intellectual Property of any Seller or other Persons.

(c) Except as set forth on Schedule 4.19(c), no claims with respect to any item of Station Intellectual Property has been made or threatened by any Person (i) alleging that the business of the Stations infringes on any Intellectual Property of other Persons, (ii) against the use by Sellers of any Station Intellectual Property, or (iii) challenging the ownership by Sellers,

or the validity or effectiveness, of any Station Intellectual Property. To Sellers' Knowledge, there has not been and there is not currently ongoing any unauthorized use, infringement or misappropriation of any of the Station Intellectual Property by any Person.

(d) Sellers are in compliance with all applicable Laws and contractual obligations of Sellers governing the collection, interception, storage, receipt, purchase, sale, transfer and use ("**Collection and Use**") of personal, consumer, or customer information, including name, address, telephone number, electronic mail address, social security number, bank account number or credit card numbers (collectively, "**Customer Information**"). Collection and Use of such Customer Information is in accordance in all respects with Sellers' privacy policies (or applicable terms of use) as published on their respective websites or any other privacy policies (or applicable terms of use) presented to consumers or customers (actual or potential) and to which Sellers are bound or otherwise subject and any contractual obligations of Sellers to their customers (actual or potential) regarding privacy. Sellers take commercially reasonable steps to protect the confidentiality, integrity and security of their software, databases, systems, networks and Internet sites and all information stored or contained therein or transmitted thereby from unauthorized or improper Collection and Use including appropriate backup, security, and disaster recovery technology, and to Sellers' Knowledge no Person has gained unauthorized access to any of Sellers' software, data, systems, or networks.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF BUYERS**

Buyers hereby jointly and severally represent and warrant to Sellers, that, subject to the specific terms herein, the following representations and warranties are true and correct as of the date of this Agreement:

**5.1 Organizational and Standing.** Each Buyer (i) is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware, (ii) is qualified to do business in all jurisdictions required by Law, and (iii) has all necessary power and authority to own, operate and lease the Assets and carry on the business of the Stations.

**5.2 Authorization and Binding Obligation.** Each Buyer has all necessary power and authority to enter into and perform its obligations under this Agreement and the Related Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. This Agreement and the Related Documents have been, and each of the other documents contemplated hereby at or prior to Closing will be, duly executed and delivered by Buyers, and have been approved by all necessary limited liability company action of Buyers. This Agreement constitutes (and each of the Related Documents, when executed and delivered, will constitute) valid and binding obligations enforceable against Buyers in accordance with their terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or the availability of equitable remedies.

**5.3 Absence of Conflicting Agreements or Required Consents.** The execution, delivery and performance of this Agreement by Buyers does not and will not: (i) violate any

provision of Buyers' Organizational Documents; (ii) except for the FCC Consents, require the consent of any Governmental Authority or any Person; or (iii) violate any applicable Law or Order.

**5.4 Litigation.** There are no claims, litigation, arbitrations or other Proceedings that are pending, have been served upon, or have been threatened against any Buyer with respect to the transactions contemplated by this Agreement.

**5.5 FCC Qualifications.** Each Buyer is qualified under the Communications Act of 1934, as amended (the "**Communications Act**") and the rules and regulations of the FCC, including without limitation the multiple ownership rules, as in effect on the date hereof, to be an assignee of the FCC Licenses.

**5.6 Financing.** Buyers have sufficient funding to pay the Purchase Price on the Closing Date.

**5.7 Broker's Fees.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission from Buyers in connection with the transactions contemplated by this Agreement.

## **ARTICLE 6 GOVERNMENTAL CONSENTS**

### **6.1 FCC Applications.**

(a) The assignments of the FCC Licenses as contemplated by this Agreement are subject to the prior consent and approval of the FCC. Prior to Closing, no Buyer shall directly or indirectly control, supervise, direct, or attempt to control, supervise, or direct, the operation of any Station.

(b) As soon as practicable, and in any event within seven business days following the date of the execution of this Agreement, Buyers and Sellers shall prepare and jointly file the FCC Applications and the Parties shall use all commercially reasonable efforts to cause the FCC to accept the FCC Applications for filing as soon as practicable after such filing. Buyers and Sellers shall thereafter prosecute the FCC Applications in good faith and with all reasonable diligence and otherwise use all commercially reasonable efforts to obtain the grant of the FCC Consents as expeditiously as practicable. No Party will take any action that it knows, or reasonably believes, would disqualify the FCC Applications. Sellers shall promptly enter into reasonable tolling or other arrangements with the FCC if necessary to resolve any complaints before the FCC relating to the Stations in order to obtain the FCC Consents.

(c) Buyers and Sellers shall each pay fifty percent (50%) of the cost of the FCC filing fees for the FCC Applications. Each Party shall bear its own costs and expenses (including the legal fees and disbursements of its counsel) in connection with the preparation of

the portion of the FCC Applications to be prepared by it and in connection with the processing and defense of the FCC Applications.

## **ARTICLE 7 COVENANTS**

### **7.1 *Certain Covenants.***

(a) Affirmative Covenants of Sellers. Between the date of this Agreement and the Closing Date:

(i) Prior to such Closing, Sellers will notify Buyers in writing if any Seller has Knowledge of: (A) any representations or warranties contained in Article 4 that are no longer true and correct or of any fact, occurrence, event, or circumstance that would constitute a breach of any such representation or warranty as of the Closing, (B) any fact, occurrence, circumstance or event which occurs, becomes known or arises after the date hereof and prior to the Closing that causes or results in the Schedule of Exceptions (and therefore any applicable representations or warranties) or any other schedules to this Agreement to be incorrect or untrue;

(ii) Sellers will promptly notify Buyers in writing if any Seller has Knowledge of (A) the occurrence of any event that may make the satisfaction of the conditions in Article 8 impossible or unlikely, or (B) the occurrence of any other event that violates any covenants, conditions or agreements to be complied with or satisfied by Sellers under this Agreement;

(iii) Sellers will comply with all Laws applicable to each Seller's use of the Assets and operate and maintain the Stations in conformity with the FCC Licenses, the Communications Act, and the rules and regulations of the FCC;

(iv) Sellers will maintain the Assets in customary repair, maintenance and condition, except for wear and tear incurred in the Ordinary Course of Business, and Sellers will continue to make capital expenditures in the Ordinary Course of Business as contemplated in the current capital expenditure plan of Sellers;

(v) Sellers will use all commercially reasonable efforts to maintain in full force and effect the FCC Licenses;

(vi) Sellers will maintain in full force and effect reasonable property damage and liability insurance on the Assets in at least the amount provided for by the policies currently maintained by Sellers;

(vii) Sellers will conduct the business of the Stations in the Ordinary Course of Business of the Stations as currently conducted; and

(viii) Sellers will use all commercially reasonable efforts to cause the conditions set forth in Section 8.2 to be satisfied promptly.

(b) Negative Covenants of Seller. Between the date of this Agreement and the Closing Date, except with the prior written consents of Buyers:

(i) Sellers will not (1) terminate, modify or amend any Material Assumed Contract except in the Ordinary Course of Business, or as reasonably necessary to transfer such Material Assumed Contract to Buyers, or (2) knowingly take or fail to take any action that would cause a breach of any Assumed Contract;

(ii) Sellers will not create or permit any Lien on any of the Assets other than Permitted Liens;

(iii) Sellers will not, directly or indirectly, sell, assign, lease or otherwise transfer or dispose of any of the Assets;

(iv) Sellers will not modify or amend, or seek to modify or amend, any of the FCC Licenses except as necessary for Sellers to be in compliance with the Communications Act;

(v) Sellers shall not increase the compensation of any Subject Employees, except for normal pay increases and annual bonuses to Subject Employees granted in the Ordinary Course of Business or as required pursuant to Contracts or Law;

(vi) Sellers shall not make any material change in their cash management policies, including any changes to their historical sales, billing, payment of accounts payable and collections of accounts receivable practices and policies; and

(vii) None of Sellers shall authorize or enter into an agreement to do any of the foregoing.

(c) Covenants of Buyers. Between the date of this Agreement and the Closing Date:

(i) Buyers will promptly notify Sellers in writing if any Buyer has Knowledge prior to such Closing of: (1) any representations or warranties contained in Article 5 that are no longer true and correct or of any fact, occurrence, event, or circumstance that would constitute a breach of any such representation or warranty as of the Closing, (2) the occurrence of any event that may make the satisfaction of the conditions in Article 8 impossible or unlikely, or (3) the occurrence of any other event that violates any covenants, conditions or agreements to be complied with or satisfied by Buyers under this Agreement;

(ii) Buyers will use all commercially reasonable efforts to cause the conditions set forth in Section 8.1 to be satisfied promptly.

(d) Seller Authorizations. On or before December 22, 2014, Sellers shall cause to be delivered to Buyers, with respect to each Seller, (i) a true and correct copy of a record of action of the board of directors, and (ii) a true and correct copy of a record of action of

the shareholders, or a certified copy of minutes of a duly held meeting of the shareholders; in each case authorizing and approving the execution, delivery and performance of this Agreement and the Related Documents and the transactions contemplated hereby by the necessary majorities pursuant to Minnesota law and the organizational documents of each applicable Seller.

**7.2 Access.** Between the date of this Agreement and the Closing Date, Sellers will provide Buyers, their counsel, accountants, consultants, and other advisers and representatives, (i) copies of the Books and Records, environmental and engineering studies and reports, property condition reports, and other documents and contracts currently relevant to the Assets or the Stations, and (ii) access to Sellers' properties, Assets and personnel as part of Buyers' due diligence review of the Assets and the Stations; provided, however that such access shall be at reasonable times during normal business hours and Buyers and their consultants and agents shall not contact employees of any Seller without such Seller's prior approval.

**7.3 Exclusivity.** Neither any Seller nor any owner, employee, officer or director, or any agent or any representative of any Seller shall, during the period commencing on the date of this Agreement and ending with the earlier to occur of the Closing hereunder or the termination of this Agreement, directly or indirectly solicit, initiate or encourage offers from, negotiate, engage in discussions with or in any manner encourage, accept or actively consider any proposal of any other Person relating to (x) the acquisition of the business of the Stations, Sellers' issued and outstanding equity or ownership interests, or the Assets, or any merger, consolidation or business combination involving any Person or that otherwise would prevent the consummation of the transactions contemplated hereby, or (y) the acquisition of the direct or indirect ownership interests of Sellers.

**7.4 Confidentiality.** Each Party shall keep confidential all information obtained by it with respect to the other Parties in connection with this Agreement, except where such information is known through other lawful sources or where its disclosure is required in accordance with applicable Law, including requirements of the FCC pursuant to the FCC Applications, and provided that the Parties shall be free to disclose such information to their respective legal advisors, financial advisers, and accountants in connection with matters under this Agreement. If the transactions contemplated hereby are not consummated for any reason, Buyers and Sellers shall return to each other, without retaining a copy thereof in any medium whatsoever, any schedules, documents or other written information, including all financial information, obtained from the other in connection with this Agreement and the transactions contemplated hereby.

**7.5 Further Assurances.** Sellers and Buyers shall cooperate and take such actions, and execute such other documents, at the Closing or thereafter, as may be reasonably requested by the other in order to carry out the provisions and purposes of this Agreement, including, for example, promptly advising each other of all communications relevant to the transactions contemplated by this Agreement received from the FCC or other Governmental Authority after the date of this Agreement and furnishing each other with copies of all such written communications.

**7.6 Transition Efforts.** Beginning at the Closing, Sellers and Buyers shall use commercially reasonable efforts to accomplish a timely, smooth, uninterrupted and organized transfer of the Assets.

**7.7 Press Releases.** Sellers and Buyers agree that no public release or announcement concerning the transactions contemplated hereby shall be issued by any Party without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, except as such release or announcement may be required by any Law, in which case the Party required to make the release or announcement shall, allow the other Parties reasonable time to comment on such release or announcement in advance of such issuance.

**7.8 Consents.** Sellers shall use all commercially reasonable efforts to obtain all consents, estoppels and approvals of Persons to the consummation of the transactions contemplated by this Agreement, all in a form acceptable to Buyers. If, with respect to any Assumed Contract other than those Assumed Contracts that are between Sellers and the Subject Employees to be assigned to Buyers, a required consent to the assignment is not obtained, following the Closing Sellers shall use all commercially reasonable efforts to keep such Assumed Contract in effect and give Buyers the benefit of it to the same extent as if it had been assigned, and Buyers shall perform Sellers' obligations under the agreement relating to the benefit obtained by Buyers. Nothing in this Agreement shall be construed as an attempt to assign any agreement or other instrument that is by its terms non-assignable without the consent of the other party.

**7.9 Monthly Financial Reports.** Sellers shall prepare and deliver to Buyers monthly unaudited statements of income and balance sheets of the Stations, for each month beginning with July 2014 as soon as practicable (collectively, the "**Monthly Reports**").

**7.10 Transfer of Social Media Accounts.** At the Closing, Sellers shall exercise commercially reasonable efforts to cause Sellers' employees or agents who are the account holders for social media accounts (including, but not limited to, Facebook, Twitter, and Instagram) related to, or used in connection with, the Stations to convey title to such accounts to individuals designated by Buyers.

**7.11 Updates to Schedule of Exceptions; Phase I Reviews.**

(a) In the event that a Phase I Review identifies any recognized environmental condition as defined pursuant to ASTM standard E1527-13 (a "**REC**"), at any time within ten (10) business days after the date of the final report relating to the applicable Phase I Review and prior to the Closing (the "**REC Objection Date**"), Buyers shall have the right to notify Sellers of the REC and of Buyers' intention to proceed pursuant to Section 7.11(c). Buyers shall use good faith commercially reasonable efforts to cause the final report for each of the Phase I Reviews to be issued on or before the date that is forty (40) days after the date hereof.

(b) Prior to the Closing, Sellers shall supplement or amend the Schedule of Exceptions to reflect or disclose (i) each and every change to the Schedule of Exceptions

discovered after the date of this Agreement, or (ii) any occurrence or any event which occurs or arises prior to the Closing Date that would result in or cause the Schedule of Exceptions to be incorrect if the same were not supplemented. At any time within ten (10) business days after any supplement or amendment to the Schedule of Exceptions by Sellers and prior to Closing (the “**Objection Date**”), Buyers shall have the right to notify Sellers of Buyers’ determination that such supplements and/or amendments, or the cumulative effect of all such supplements and/or amendments, to the Schedule of Exceptions has resulted, or is reasonably expected to result, in one or more Losses or other adverse consequences to the Assets, taken as a whole, or the business of the Stations, taken as a whole, with a dollar value, individually or in the aggregate, of at least \$250,000 in any rolling twelve (12) month period, or at least \$1,000,000 without regard to any time period, and of Buyers’ intention to proceed pursuant to Section 7.11(c).

(c) In the event that Buyers deliver a notice to Sellers prior to the REC Objection Date, pursuant to Section 7.11(a), or, prior to the Objection Date, pursuant to Section 7.11(b), Sellers and Buyers shall negotiate in good faith regarding an appropriate adjustment to the Purchase Price or other modification, if any, of this Agreement in light of all such RECs and all such supplements and/or amendments to the Schedule of Exceptions, as applicable. If Sellers and Buyers are unable to agree on such modification or adjustment prior to Closing, Buyers may, in their sole discretion, elect to terminate this Agreement by written notice to Sellers, without liability of Buyers to Sellers. With respect to any REC and any supplement or amendment to the Schedule of Exceptions, if no such notice is delivered prior to the REC Objection Date or the Objection Date, as applicable, Buyers shall be deemed to have waived any right to terminate this Agreement pursuant to this Section 7.11(c) as a result of, or to be indemnified with respect to, such REC or supplement or amendment to the Schedule of Exceptions, considered individually or in the aggregate with all other RECs and supplements or amendments to the Schedule of Exceptions that have previously been the subject of notices delivered pursuant to Section 7.1(a) or Section 7.1(b), pursuant to this Section 7.11(c).

## **ARTICLE 8 CONDITIONS PRECEDENT**

**8.1 To Buyers’ Obligations Regarding Closing.** The obligations of Buyers to complete the transactions contemplated by this Agreement are subject to the satisfaction or to the waiver by Buyers in their sole discretion (except for Sections 8.1(b) and 8.1(c) below, which may not be waived other than with respect to the requirement that the FCC Consent shall have become a Final Order), at or prior to the Closing Date, of each of the following conditions (the “**Buyers’ Closing Conditions**”):

(a) Representations, Warranties and Covenants.

(i) All representations and warranties made by Sellers shall be true and correct in all material respects on the Closing Date as if made on the Closing Date (except

that any representations and warranties of Sellers that are already qualified by materiality shall be true and correct in all respects).

(ii) All of the terms, covenants and conditions to be complied with or performed by Sellers under this Agreement on or prior to the Closing Date shall have been complied with or performed by Sellers in all material respects.

(b) No Order or Proceeding. No Order and no Proceeding shall have been instituted or threatened (and not subsequently dismissed, settled or otherwise terminated) which does or would (i) restrain, prohibit or invalidate the transactions contemplated by this Agreement, or (ii) impose material restrictions, limitations or conditions with respect to Buyers' ownership of the Assets or operation of the Stations.

(c) FCC Consents. The FCC Consents shall have been obtained without the imposition of any condition materially adverse to Buyers or the Stations, and such FCC Consents shall have become Final Orders; provided, however, that Buyers may waive finality in their sole discretion.

(d) Consents. Buyers shall have received the consents set forth on Schedule 8.1(d) in form and substance reasonably satisfactory to Buyers (collectively "**Material Consents**"), which shall include, without limitation, each of the Lease Estoppels.

(e) Deliveries. Sellers shall have made all deliveries required under Section 9.1.

(f) No Material Adverse Effect. There shall not have occurred a Material Adverse Effect since the date hereof.

(g) Release of Liens and Tax Clearance Certificates. Buyers shall have received evidence in form and substance reasonably satisfactory to them that all Liens, other than Permitted Liens, affecting the Assets have been terminated and released and shall have received a tax clearance certificate reasonably satisfactory to them.

(h) Good Standing Certificates. Buyers shall have received a certificate dated within three (3) days before the Closing Date from the Secretary of State of the State of Minnesota certifying that each Seller is validly existing and in good standing under the laws of such state.

(i) Title Evidence. Buyers shall have received from the Title Company a title insurance policy with respect to each parcel of the Real Property, substantially in conformity with the Title Evidence, and in form and substance acceptable to Buyers.

(j) Relocation of KLLZ Transmitter Site. With regard to the operation of KLLZ-FM, (i) the application of BG Broadcasting for a construction permit to diplex operations with KHBP(FM) and to relocate the transmitter site of KLLZ-FM (FCC CP File No. BPH-

20141104ABW) to the currently licensed site for KBHP(FM) authorized by FCC License File No. BLH-19990504KA shall have been granted by the FCC, (ii) any required authorization(s) by Paul Bunyan Broadcasting to utilize the diplex antenna for KBHP(FM) shall have been obtained from the FCC, (iii) such authorized diplex antenna shall have been installed, (iv) Sellers shall have successfully operated KLLZ-FM and KBHP(FM) with the diplex antenna pursuant to FCC program test authority for a period of ten (10) days, (v) the FCC shall have granted licenses for KLLZ-FM and KBHP(FM) authorizing such operations, and (vi) such grants shall have become Final.

(k) Extension of WJJY-FM / KBLB-FM Tower Site Lease. Sellers shall have delivered to Buyers a duly executed extension of the term of the Miscellaneous Lease dated January 1, 2005 between the State of Minnesota Department of Natural Resources and BL Broadcasting, in form and substance reasonably satisfactory to Buyers.

**8.2 To Sellers' Obligations.** The obligations of Sellers hereunder to complete the transactions contemplated by this Agreement are subject to the satisfaction or to the waiver by Sellers in their sole discretion (except for Sections 8.2(b) and (c) below, which may not be waived), at or prior to the Closing Date, of each of the following conditions ("**Sellers' Closing Conditions**"):

(a) Representations, Warranties and Covenants.

(i) All representations and warranties made by Buyers in this Agreement shall be true and correct in all material respects on the Closing Date as if made on and as of that date.

(ii) All of the terms, covenants and conditions to be complied with or performed by Buyers under this Agreement on or prior to the Closing Date shall have been complied with or performed by Buyers in all material respects.

(b) No Order or Proceeding. No Order and no Proceeding shall have been instituted or threatened (and not subsequently dismissed, settled or otherwise terminated) which does or would restrain, prohibit or invalidate the transactions contemplated by this Agreement.

(c) FCC Consents. The FCC Consents shall have been obtained.

(d) Deliveries. Buyers shall have made all the deliveries required under Section 9.2 and shall have paid (or shall be prepared to pay at the time of Closing) the Purchase Price (less the Escrow Amount).

**ARTICLE 9**  
**DOCUMENTS TO BE DELIVERED AT THE CLOSING**

**9.1 Documents to be Delivered by Sellers.** At Closing, Sellers shall deliver to Buyers the following items (all documents which by their terms are to be executed by Sellers shall be duly executed by Sellers):

(a) Copies of resolutions of the board of directors and shareholders of each Seller authorizing the execution, delivery and performance of this Agreement and the Related Documents and the consummation of the transactions contemplated hereby, and copies of each Seller's Organizational Documents, certified on behalf of each such Seller by a duly authorized officer of such Seller as being true, correct, in full force and effect and complete as of the Closing Date;

(b) A certificate, dated as of the Closing Date, executed by an officer of each Seller, certifying on behalf of each such Seller that the closing conditions specified in Section 8.1(a) and 8.1(b) have been satisfied;

(c) Duly executed instruments of conveyance and transfer effecting the sale, transfer, assignment and conveyance of the Assets from each Seller to Buyers, as contemplated herein, including the following:

(i) assignments of the FCC Licenses, in the form attached hereto as Exhibit C (the "**FCC License Assignments**");

(ii) a bill of sale from each Seller, in the form attached hereto as Exhibit D ("**Bills of Sale**");

(iii) assignments of Sellers' rights and assumption by Buyers of Assumed Liabilities under the Assumed Contracts, in the form attached hereto as Exhibit E ("**Assignment/Assumption Agreements**");

(iv) a special or limited warranty deed from each applicable Seller for each parcel of the Owned Real Property, in the form attached hereto as Exhibit F ("**Deeds**");

(v) Schedule 1.1(c), setting forth the Personal Property used in the operation of the Stations;

(vi) an estoppel certificate, in substantially the form attached as Exhibit G hereto, confirming the material terms of each Real Estate Lease (each, a "**Lease Estoppel**"), duly executed by each applicable Seller and landlord; provided, however, that the Lease Estoppel relating to the Lease dated July 1, 1993 between J.E. and Mary Betty Quistgard and Bunyan Broadcasting shall include confirmation from the landlord that such Real Estate Lease has been extended upon the terms set forth in the renewal letters of Bunyan Broadcasting dated December 14, 1997, December 17, 2002, June 30, 2008, and December 6, 2013;

(vii) a termination of the real estate lease between Heartland and BDI Broadcasting, dated August 1, 2003, effective upon the Closing;

(viii) a real estate lease, effective upon the Closing, between HBI Alexandria and Heartland, in a form to be mutually agreed upon by Buyers and Sellers (the "**Alexandria Lease**");

(ix) a Memorandum of Lease relating to the Alexandria Lease;

(x) a termination of the real estate lease between Heartland and BL Broadcasting, dated February 1, 2003, effective upon the Closing;

(xi) a real estate lease, effective upon the Closing, between HBI Brainerd/Wadena and Heartland, in a form to be mutually agreed upon by Buyers and Sellers (the "**Brainerd Lease**");

(xii) a Memorandum of Lease relating to the Brainerd Lease;

(xiii) letters, in form and substance mutually acceptable to Buyers and Sellers, to all tenants or occupants of each parcel of Owned Real Property (or to any subtenants of any Leased Real Property) indicating that ownership of such real property (or the tenant's interest under any lease, as the case may be) has been transferred to Buyers, and providing an address at which future installments and any delinquent installments of rent should be paid;

(d) A payoff letter from The First National Bank of Bemidji and accompanying completed forms UCC-3 authorizing the Buyers to file such forms to release all liens against the Assets upon payment of the amount owing as set forth in such payoff letter;

(e) A duly executed, customary owner's affidavit with respect to the Owned Real Property in form and substance reasonably satisfactory to the Title Company and Buyers;

(f) If necessary to cause the issuance of the title policies on the Closing Date, a duly executed gap indemnity with customary terms and conditions with respect to the Real Property; provided, that the term of the gap indemnity shall not extend beyond thirty (30) days;

(g) From each Seller, a duly executed certification of non-foreign status described in Section 1445 of the Internal Revenue Code;

(h) A certificate signed by each applicable Seller, stating that each such Seller knows of no wells on the Owned Real Property, or a Well Certificate in form reasonably acceptable to Buyers designating the location of any such well and the width, depth and other specifications relating thereto;

(i) Duly executed UCC releases, lien terminations, or other similar documents or instruments required to transfer the Assets free and clear of Liens, other than

Permitted Liens, along with evidence in form and substance satisfactory to Buyers that all such Liens affecting the Assets have been terminated and released;

(j) Physical possession of the tangible Assets to Buyers, and keys and security access codes to access such Assets. Sellers shall also make available to Buyers the Books and Records; and

(k) Such other documents, information, certificates and materials as may be reasonably required by Buyers.

**9.2 Documents to be Delivered by Buyers.** At Closing, Buyers shall deliver to Sellers the following items (all documents which by their terms are to be executed by Buyers, shall be duly executed by Buyers):

(a) Copies of resolutions of the sole member of each Buyer authorizing the execution, delivery and performance of this Agreement and the Related Documents and the consummation of the transactions contemplated hereby, and copies of each Buyer's Organizational Documents, certified on behalf of each such Buyer by a duly authorized officer of such Buyer as being true, correct, in full force and effect and complete as of the Closing Date;

(b) A certificate for Buyers, dated as of the Closing Date, executed on behalf of Buyers by duly authorized representatives of Buyers, certifying that the closing conditions specified in Sections 8.2(a) and 8.2(b) have been satisfied;

(c) The Assignment/Assumption Agreements;

(d) The Alexandria Lease;

(e) The Memorandum of Lease for the Alexandria Lease;

(f) The Brainerd Lease;

(g) The Memorandum of Lease for the Brainerd Lease;

(h) A certificate of good standing or existence of each Buyer dated within three (3) days of the Closing Date;

(i) The Purchase Price, less the Escrow Amount; and

(j) Such other documents, information, certificates and materials as may be required by this Agreement.

## **ARTICLE 10 INDEMNIFICATION**

**10.1 Sellers' Indemnities.** Sellers (the "***Seller Indemnifying Parties***") shall jointly and severally indemnify, defend, and hold harmless Buyers and their Affiliates (collectively, the "***Buyer Indemnified Parties***") from and against, and reimburse them for, all claims, damages, liabilities, losses, judgments, fines, penalties, costs and expenses, including interest, penalties, court costs and reasonable attorneys' fees and expenses (each, a "***Loss***" and together, "***Losses***"), resulting from, related to, or in connection with:

(a) Any breach or misrepresentation by any Seller of any of its representations or warranties in this Agreement or in any Related Documents;

(b) Any breach, misrepresentation, or other violation by any Seller of any of its post-Closing covenants or agreements in this Agreement or in any Related Documents;

(c) Any third-party claims not related to Assumed Liabilities which are brought against Buyers or their Affiliates, but only with respect to the portion of any such Losses that is attributable to the operation of any Station or any Seller's business prior to the Closing; and

(d) Any Excluded Liabilities.

**10.2 Buyers' Indemnities.** Buyers (the "***Buyer Indemnifying Parties***") shall jointly and severally indemnify, defend and hold harmless Sellers and their Affiliates, and their respective shareholders, directors, officers, employees, and representatives (collectively, the "***Seller Indemnified Parties***") from and against, and reimburse them for, all Losses resulting from:

(a) Any breach, misrepresentation, or other violation by Buyers of any of their representations or warranties in this Agreement or in any Related Documents;

(b) Any breach, misrepresentation, or other violation by Buyers of any of their post-Closing covenants or agreements in this Agreement or in any Related Documents;

(c) Any third-party claims brought against Sellers or their Affiliates to the extent attributable to Buyers' operation of any Station or use of the Assets following the Closing;

(d) Any Assumed Liabilities; or

(e) Buyers' entering upon the Real Property or performing technical and environmental due diligence on the Real Property and facilities of the Sellers prior to Closing pursuant to Section 1.6(b).

**10.3 Procedure for Indemnification.** The procedure for indemnification shall be as follows:

(a) The Party seeking indemnification under this Article 10 (the “**Claimant**”) shall give notice to the Party from whom indemnification is sought (the “**Indemnitor**”) of any claim or liability that might result in an indemnified Loss (an “**Indemnified Claim**”), specifying in reasonable detail (i) the factual basis for and circumstances surrounding the Indemnified Claim; and (ii) the amount of the potential Loss pursuant to the Indemnified Claim if then known. If the Indemnified Claim relates to a Proceeding filed by a third party against Claimant, notice shall be given by Claimant as soon as practical, but in all events within fifteen (15) business days after written notice of the Proceeding is given to Claimant. In all other circumstances, notice shall be given by Claimant as soon as practical, but in all events within twenty (20) business days after Claimant becomes aware of the facts giving rise to the potential Loss. Notwithstanding the foregoing sentences, should the Claimant fail to notify the Indemnitor in the time required above, the Indemnitor shall only be relieved of its obligations pursuant to this Article 10 to the extent the Indemnitor is materially prejudiced by such delay or failure to timely give notice of an Indemnified Claim or potential Loss.

(b) The Claimant shall make available to Indemnitor and/or its authorized representatives the information relied upon by the Claimant to substantiate the Indemnified Claim or Loss and shall make available any information or documentation in Claimant’s possession, custody or control that is or may be helpful in defending or responding to the Indemnified Claim or Loss.

(c) The Indemnitor shall have thirty (30) days after receipt of the indemnification notice referred to in sub-section (a) to notify the Claimant in writing that it elects to conduct and control the defense of any such Indemnified Claim; *provided, however*, such thirty (30) day period shall be reduced to such shorter period of time set forth in the applicable indemnification notice if the Indemnified Claim or Loss is based upon a third-party claim requiring a response in fewer than thirty (30) days.

(d) If the Indemnitor does not advise the Claimant of its intent to conduct and control the defense of the Indemnified Claim or Proceeding within the time period specified above in subsection (c), the Claimant shall have the right to defend, contest, settle, or compromise such Indemnified Claim or Proceeding. If the Indemnitor timely advises the Claimant that it will conduct and control the defense of the Indemnified Claim or Proceeding, the Indemnitor shall have the right to undertake, conduct, defend, and control, through counsel of its own choosing and at its sole expense, the conduct, defense, and settlement of the Indemnified Claim or Proceeding, and the Claimant shall cooperate with the Indemnitor in connection therewith; *provided, however*, that: (i) the Indemnitor shall not consent to the imposition of any injunction against the Claimant without the prior written consent of the Claimant; (ii) the Indemnitor shall permit the Claimant to participate in such conduct or settlement through counsel chosen by the Claimant, but the fees and expenses of such counsel shall be borne by the Claimant; (iii) the Indemnitor shall promptly reimburse the Claimant for the full amount of any indemnified Loss or indemnified portion of any Loss resulting from the Indemnified Claim or Proceeding and all reasonable expenses related to such indemnified Loss incurred by the Claimant, except fees and expenses of counsel for the Claimant in the event that Indemnitor has conducted or controlled the Proceeding; and (iv) no Indemnitor may, without the prior written

consent of the Claimant, settle or compromise, or consent to the entry of any judgment in connection with, any Indemnified Claim or Proceeding with respect to the Indemnified Claim unless (A) such settlement or compromise involves only the payment of money; (B) there is no finding or admission of liability, any violation of any Law or any violation of the rights of any Person by the Claimant; and (C) the Indemnitor obtains an unconditional release of each Claimant from all Indemnified Claims and potential Loss arising out of Indemnified Claim or Proceeding related thereto.

#### **10.4 Limitations.**

(a) Except in the case of fraud or intentional misrepresentation, the Indemnitor shall only be required to indemnify the Claimant under this Article 10, pursuant to Section 10.1 (with respect to Buyer Indemnified Parties) or Sections 10.2(a) - (d) (with respect to the Seller Indemnified Parties) if the aggregate amount of all Losses exceeds Fifty Thousand Dollars (\$50,000) (the “**Basket**”), after which the Claimant shall be entitled to recover, and the Seller Indemnifying Party or Buyer Indemnifying Parties, as the case may be, shall be obligated for, all Losses in excess of the Basket; provided that the foregoing limitation shall not apply to (i) Losses relating to a breach by any Seller of its representations or warranties in Section 4.1 (Organization and Standing; Capitalization), Section 4.2 (Authorization and Binding Obligation), Section 4.5 (Station Licenses), Section 4.10 (Broker’s Fees), and Section 4.13 (Property) (collectively, the “**Fundamental Representations**”), and (ii) Losses relating to the indemnity obligations of the Buyer Indemnifying Parties under Section 10.2(e).

(b) Except in the case of fraud or intentional misrepresentation, the maximum aggregate liability of the Seller Indemnifying Parties (i) under Section 10.1(a) for any claim or claims for Losses for breaches of representations or warranties other than Fundamental Representations shall not exceed One Million Dollars (\$1,000,000); (ii) under Section 10.1(b) - (d) shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000), less the aggregate amount of Losses described in clause (i) actually paid by Seller Indemnifying Parties; and (iii) under Section 10.1(a) for breach of any Fundamental Representation shall be an amount equal to the Purchase Price. For the avoidance of doubt, the maximum aggregate liability of the Seller Indemnifying Parties described in clauses (i) and (ii) shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000). The maximum aggregate liability of Buyer Indemnifying Parties for any claim or claims for Losses pursuant to Sections 10.2(a) - (d) shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000). There is no maximum aggregate liability of the Buyer Indemnifying Parties for any claim or claims for Losses pursuant to Section 10.2(e).

(c) Payments by a Seller Indemnifying Party or a Buyer Indemnifying Party pursuant to the obligations set forth in Sections 10.1 and 10.2, respectively, in respect of any Loss shall be reduced by the dollar amount of any insurance proceeds actually received by the applicable Buyer Indemnified Party or Seller Indemnified Party in respect of such Loss, less any related costs and expenses, including the aggregate cost of pursuing any related insurance claims and any related increases in insurance premiums or other chargebacks. Buyers or Sellers, as applicable, shall use good faith commercially reasonable efforts to seek full recovery under all

insurance policies covering any Losses to the same extent as they would if such Losses were not subject to indemnification hereunder.

(d) Payments by a Seller Indemnifying Party or Buyer Indemnifying Party pursuant to the obligations set forth in Sections 10.1 and 10.2, respectively, in respect of any Loss shall be (i) reduced by an amount equal to any Tax benefit actually realized as a result of such Loss by the applicable Buyer Indemnified Party or Seller Indemnified Party, and (ii) increased by an amount equal to any Tax actually paid on the receipt of such indemnity payment.

(e) The Buyer Indemnifying Parties and Seller Indemnifying Parties shall use commercially reasonable efforts to mitigate any Losses with respect to any matters for which the Seller Indemnified Parties and Buyer Indemnified Parties, as applicable, seek or may seek indemnification under this Article 10.

(f) Notwithstanding anything to the contrary in this Agreement, (i) the representations, warranties, and covenants of Sellers are solely for the benefit of the Buyers and Buyers' Affiliates and the indemnification obligations of Sellers pursuant to this Agreement shall not be assignable to or survive as to any third party, and (ii) the representations, warranties, and covenants of Buyers are solely for the benefit of the Sellers and Sellers' Affiliates and the indemnification obligations of Buyers pursuant to this Agreement shall not be assignable to or survive as to any third party.

(g) In no event will any Buyer Indemnified Party or Seller Indemnified Party be entitled to any double recovery as a result of any claim for indemnification pursuant to this Article 10.

#### **10.5 Survival.**

(a) All representations and warranties contained in this Agreement shall survive for a period of twelve (12) months after the Closing Date and thereafter such representations and warranties shall expire, except that (i) any representation or warranty with respect to which an indemnification notice has been delivered for a breach thereof prior to the expiration of such twelve (12) month period shall survive as to such claim until such claim is resolved, and (ii) the Fundamental Representations shall survive for the statute of limitations applicable to the matters subject to such respective representations and warranties, plus ten (10) business days.

(b) With respect to Losses covered by Section 10.1(c), Section 10.1(d), or Sections 10.2(a) - (d), the obligations of the Seller Indemnifying Parties or the Buyer Indemnifying Parties, as applicable, under this Article 10 shall expire eighteen (18) months after the Closing Date, *provided, however*, that, with respect to any such obligations as to which an indemnification notice has been delivered prior to the expiration of such eighteen (18) month period shall survive as to any claim set forth in such notice until the resolution of any such claim. With respect to Losses covered by Section 10.2(e), the obligations of the Buyer Indemnifying

Parties shall survive for the statute of limitations applicable to such matters, plus ten (10) business days.

(c) Notwithstanding the foregoing, each covenant and agreement contained in this Agreement required to be performed after the Closing shall survive the Closing and be enforceable in accordance with its terms until such covenant or agreement has been fully performed.

**10.6 *Exclusive Remedies following the Closing.***

Buyers and Sellers acknowledge and agree that the foregoing indemnification provisions in this Article 10 shall, except as provided in Section 10.8 (Specific Performance) and except in the case of (i) fraud or intentional misrepresentation, or (ii) the breach of any covenant or condition of this Agreement to be performed after Closing, be the exclusive remedy of Buyers and Sellers with respect to Losses after the Closing relating to the transactions contemplated by this Agreement; *provided, however*, that notwithstanding the foregoing any Party may pursue injunctive relief following the Closing to enforce covenants in the Agreement that survive such Closing and are supportable under applicable Law.

**10.7 *General.*** Notwithstanding anything contained in this Agreement to the contrary, no Party will be entitled to lost profits, punitive damages or other special or consequential damages regardless of the theory of recovery.

**10.8 *Specific Performance.*** Sellers agree and acknowledge that in the event of Sellers' failure to perform their obligation to consummate the transactions contemplated hereby, Buyers shall be entitled to specific performance of the terms of this Agreement and of Sellers' obligation to consummate the transactions contemplated hereby; *provided, however* that such action for specific performance shall not be deemed to limit or preclude Buyers' right to any other remedy that may be available at law or in equity, including refund of the Escrow Amount or indemnification and recovery of Losses under Article 10. If any action is brought by Buyers to enforce this Agreement, Sellers shall waive the defense that there is an adequate remedy at law, and hereby expressly acknowledge and agree that the Assets include unique property that cannot be readily obtained on the open market.

**10.9 *Liquidated Damages.*** Notwithstanding anything herein to the contrary, Sellers hereby agree that in the event of a Buyer default under this Agreement and the termination of this Agreement by Sellers pursuant to Sections 11.1(a)(i) or 11.1(c), Sellers agree to accept the Escrow Amount as their sole and exclusive remedy for any resulting damages, and Sellers hereby expressly waive the right to bring an action against Buyers for any other damages arising under this Agreement.

**10.10 *Escrow.*** In the event any of the Buyer Indemnified Parties is entitled to indemnification pursuant to the provisions of this Article 10, such Buyer Indemnified Party shall first seek payment from the Escrow Amount pursuant to the terms of this Agreement and the Escrow Agreement to the extent of funds available thereunder, and not from Seller Indemnifying

Parties. Notwithstanding the foregoing, recovery of Losses shall in no way be limited to the Escrow Amount.

## **ARTICLE 11 TERMINATION RIGHTS**

**11.1 Termination.** For purposes of this Article 11, references to a “Party” or the “other Party” shall mean Sellers or any Seller and Buyers or any Buyer, as the context requires.

(a) This Agreement may be terminated by either Buyers or Sellers upon written notice to the other Party, if:

(i) the other Party is in material breach of this Agreement and such breach has been neither cured or agreed to be cured in a manner reasonably acceptable to the non-breaching Party within the cure period allowed under subsection (f) below nor waived by the Party giving such termination notice, provided that the Party seeking to terminate is not in material breach of this Agreement;

(ii) a court of competent jurisdiction or Governmental Authority shall have issued an Order or taken any other action permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such Order, or other action shall have become final and nonappealable; or

(iii) the Closing shall have not occurred by the date which is one year after the date of this Agreement.

(b) This Agreement may be terminated by mutual written consent of Buyers and Sellers.

(c) Sellers may terminate this Agreement by written notice to Buyers in the event that Buyers fail to close on the transactions contemplated by this Agreement when all Buyers’ Closing Conditions have been satisfied in full (or would be satisfied with delivery at Closing) or waived by Buyers.

(d) Buyers may terminate this Agreement by written notice to Sellers in the event that Sellers fail to close on the transactions contemplated by this Agreement when all Sellers’ Closing Conditions have been satisfied in full (or would be satisfied with delivery at Closing) or waived by Sellers.

(e) Buyers may terminate this Agreement by written notice to Sellers in accordance with Section 7.11 or Section 13.13.

(f) If either Party believes the other to be in breach or default of this Agreement, the non-defaulting Party shall, prior to exercising its right to terminate under Section

11.1(a)(i), provide the defaulting Party with notice specifying in reasonable detail the nature of such breach or default. The defaulting Party shall have thirty (30) days from receipt of such notice to cure such default or if such default is not capable of being cured in thirty (30) days of such notice, the defaulting Party shall have agreed to cure such default in a manner reasonably acceptable to the non-breaching Party. Notwithstanding anything to the contrary herein, in the event of Buyers' default of this Agreement, notice given by Sellers in accordance with the form required under Minnesota Statutes Section 559.21 shall satisfy the notice requirements under this Section.

**11.2 Effects of Termination.** If this Agreement is terminated under this Article 11, this Agreement shall become null and void and of no further force and effect, except for the following provisions: 2.1(c) (Pre-Closing Treatment of the Escrow Amount), 7.4 (Confidentiality), 7.7 (Press Releases), 11.1 (Termination), 11.2 (Effects of Termination), and the provisions in Article 13 (Other Provisions) and Article 14 (Definitions) that by their terms would survive termination. Nothing in this Section 11.2 shall be deemed to release any Party from liability for fraud or a willful breach by such Party of any term or provision of this Agreement.

## **ARTICLE 12 OTHER AGREEMENTS**

**12.1 Access to Books and Records and Records Retention.** From and after the Closing Date, Sellers and Buyers shall, with respect to the Stations, (i) each provide the other (at the requesting Party's sole cost and expense for out-of-pocket expenses paid to other Persons) with such assistance as may reasonably be requested by any of them in connection with the preparation of any Tax Return, audit or other examination by any Taxing authority, or Proceeding related to Liability for Taxes; and (ii) each retain for a period of ten (10) years and provide the other with any records or other information that may be necessary for such Tax Return, audit or examination, Proceeding, or determination. Without limiting the generality of the foregoing, Buyers and Sellers each shall retain, until the applicable statutes of limitations (including any extensions thereof) have expired, copies of all Tax Returns, supporting work schedules and other records or information that may be relevant to such returns for all Tax periods or portions thereof ending before or including the Closing Date and shall not destroy or otherwise dispose of any such records without first providing the other Party with a reasonable opportunity to review and copy the same.

**12.2 Subject Employees.** Attached hereto as Schedule 12.2, is a list of all employees of Sellers providing services for or located at any of the Stations as of the date of this Agreement. Such Schedule shall be updated as of the Closing Date to reflect any employees hired by any Seller between the date of this Agreement and the Closing Date, as well as those employees terminated by any Seller between the date of this Agreement and such Closing Date. Sellers shall terminate on the Closing Date, effective immediately upon the Closing, all of Sellers' employees listed on Schedule 12.2 who are employed at the Stations as of the Closing Date, other than (a) employees on leave as of such date (unless, with respect to employees on leave, the Parties otherwise agree at Closing) and (b) employees with Assigned Employment

Agreements (collectively, the “**Subject Employees**”). In the case of those employees with Assigned Employment Agreements Sellers shall terminate the employment of said employees and such termination shall be deemed effective as of the Closing with Buyers assuming such employment agreements as set forth in Section 1.3 herein. At such time, such employees will become Subject Employees. Sellers shall retain the employment of the employees listed on Schedule 12.2 who are on leave as of the Closing Date until the end of such employee’s leave or until such employment would otherwise terminate in accordance with Sellers’ leave policies. Buyers shall assume any reinstatement obligations with respect to such employees and shall offer such employees immediate employment at such time as they are able to return to work, provided that such employees are able to return to work and apply for reinstatement within six months of the Closing Date, or such later date as may be required by Law. Upon hire by Buyers, such employees shall also be Subject Employees under this Agreement. Sellers shall remain solely liable and responsible for all pre-Closing obligations and liabilities with respect to the Subject Employees (and post-closing obligations and liabilities with respect to Subject Employees hired after the Closing until such time as they become Subject Employees), which liabilities and obligations shall be Excluded Liabilities. Buyers shall not be liable for any pre- or post-Closing obligations and liabilities of any other employee or former employee, which liabilities and obligations shall be Excluded Liabilities.

**12.3 Offers of Employment.** On or prior to the Closing Date, Buyers shall (i) offer employment at-will to all Subject Employees of the Stations, effective upon the Closing, and (ii) assume the employment agreements set forth on Schedule 1.1(d) (“**Assigned Employment Agreements**”). Sellers agree to reasonably cooperate with Buyers with respect to Buyers’ efforts to obtain the written acknowledgments or consents from Subject Employees subject to Assigned Employment Agreements that such Subject Employees shall cease to have the right to participate in Company Plans of any Seller as of such Closing Date and shall thereafter have the right to participate in the employee benefit plans made available by Buyers. Sellers and Buyers agree that, prior to such Closing Date, they will cooperate in the preparation of any and all communications with Subject Employees with respect to the intent of Buyers to offer employment to all Subject Employees on the Closing Date consistent with this Section 12.3.

**12.4 COBRA Obligations.** Except as otherwise required by applicable Law, Sellers will be solely responsible for any obligations for continuation coverage under Section 4980B of the Internal Revenue Code and part 6 of Subtitle B of Title I of ERISA with respect to any Subject Employee who is not hired by Buyers at Closing, along with any other former employees of Sellers.

**12.5 401(k) Plan.** Buyers’ 401(k) Plan shall credit Subject Employees with service credit for eligibility and vesting purposes for any service recognized for eligibility and vesting purposes under any plan of Sellers that is a 401(k) plan.

**12.6 Health and Welfare Benefits.** The medical, dental and health plans of Buyers that would be applicable to Subject Employees hired by Buyers shall be offered to and extended to such employees effective as of the Closing Date under the terms and conditions of such plans then in effect. Buyers shall to provide such employees credit for any co-payments and/or out-of-

pocket payments to fulfill any applicable thresholds applicable to the medical and dental plans of Buyers, subject to receipt by Buyers on a timely basis of claims data from Sellers' plans showing the amount of such co-payments and/or out-of-pocket payments incurred before the Closing Date, provided that (i) such credits are permissible pursuant to the terms of Buyers' medical and dental plans, and (ii) such credits shall be made pursuant to the terms and conditions of Buyers' medical and dental plans. Notwithstanding the foregoing, for purposes of providing group health plan coverage, Buyers shall waive all pre-existing condition waiting periods for each Subject Employee (and for the spouse and dependents of such employee) covered by the group health plans immediately prior to the Closing, and shall provide health care coverage under Buyers' plans effective as of the Closing without the application of any eligibility waiting period for coverage.

**12.7 Non-Solicitation.** Sellers, in order to induce Buyers to enter into this Agreement and consummate the transactions contemplated by this Agreement, shall not, and shall not permit their Affiliates to, unless it is with the prior written consent of or on behalf of any Buyer, for their own account or jointly with another, directly or indirectly, for or on behalf of any Person, as principal, agent, stockholder, member, participant, partner, promoter, director, officer, manager, employee, consultant, sales representative or otherwise:

(a) for a period of two (2) years from the Closing Date, hire any Person employed by the Buyers or any of Buyers' Affiliates, or solicit, or assist in the solicitation of, for the purpose of offering employment, any Person employed by Buyers or any of Buyers' Affiliates (as an employee or independent contractor) during such two (2) year period;

(b) at any time after the Closing use, disclose or reveal to any Person, any Confidential Information of the Stations. "**Confidential Information**" means all information related to the business of the Stations or the Assets that derives value, economic or otherwise, from not being generally known to the public, but excluding any information that comes into the public domain through no fault of Sellers or any information that is required to be disclosed by a court order or by any Law.

**12.8 Non-Competition.** For a period of five years commencing on the Closing Date (the "**Restricted Period**"), Sellers shall not, and shall not permit any of their Affiliates who are not engaging in such activity on behalf of any Buyer to, directly or indirectly, (i) engage in or assist others in engaging in the business of operating commercial radio stations (the "**Restricted Business**") within the current service contours of the Stations, as applicable (the "**Territory**"); (ii) have an interest in any Person that engages directly or indirectly in the Restricted Business in the Territory in any capacity, including as a partner, shareholder, member, employee, principal, agent, trustee or consultant; or (iii) intentionally interfere in any material respect with the business relationships (whether formed prior to or after the date of this Agreement) between any Buyer or Affiliate of any Buyer and any advertiser, employee, or other party doing business with any Buyer or Affiliate of Buyer. Notwithstanding the foregoing, Sellers may own, directly or indirectly, solely as an investment, securities of any Person traded on any national securities exchange if the applicable Seller or its principals is not a controlling Person of, or a member of a

group which controls, such Person and does not, directly or indirectly, own 5% or more of any class of securities of such Person.

**12.9 Collection of Accounts Receivable.** Sellers have and shall retain all right and title to the Accounts Receivable and to the proceeds thereof. Sellers shall furnish to Buyers, within three (3) days after the Closing Date, a list of the amounts owing on the Accounts Receivable and the party owing such amounts (with respect to an Account Receivable, the “*Account Debtor*”). Buyers agree to use their commercially reasonable efforts, by such means as Buyers would employ in the collection of their own receivables of a similar nature, to collect the Accounts Receivable for a period of one hundred twenty (120) days following the Closing Date, but will not incur any liability as the result of failure to collect Accounts Receivable. Buyers will remit to Sellers the amounts collected on a bi-weekly basis by depositing the amounts in such bank account as Sellers may from time to time specify in writing. One hundred thirty (130) days following the Closing Date, Buyers will provide to Sellers the records of all uncollected Accounts Receivable. Payments by an Account Debtor on or after the Closing Date will be applied by Buyers to unpaid invoices in order of the dates thereof unless such Account Debtor designates in writing a different application. Buyers will not, without consent of Sellers (which shall not be unreasonably withheld), compromise or settle any Accounts Receivable for less than full value of such Accounts Receivable.

### **ARTICLE 13 OTHER PROVISIONS**

**13.1 Transfer Taxes and Expenses.** Except as provided otherwise in this Agreement, all Transfer Taxes imposed on this transaction shall be paid by Sellers. Except as otherwise provided in this Section and except as otherwise provided elsewhere in this Agreement, each Party shall be solely responsible for and shall pay all other costs and expenses (including attorney and accounting fees) incurred by it in connection with the negotiation, preparation and performance of and compliance with the terms of this Agreement.

**13.2 Benefit and Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns. None of the Parties may assign their rights or delegate their obligations under this Agreement without the prior written consent of the other Parties, except that Buyers may assign the Agreement in whole or in part to one or more of their Affiliates, provided that they shall not be released thereby. Except as expressly provided in this Agreement, this Agreement is not intended to, nor shall it, create any rights in any person other than the Parties, the Buyer Indemnified Parties and the Seller Indemnified Parties.

**13.3 Additional Documents.** The Parties agree to execute, acknowledge and deliver, before, at or after the Closing Date, such further instruments and documents as may be reasonably required to implement, consummate and effectuate the terms of this Agreement.

**13.4 Entire Agreement; Schedules; Amendment; Waiver.** This Agreement and the exhibits and schedules hereto and thereto and the Related Documents embody the entire

agreement and understanding of the Parties hereto relating to the matters provided for herein and supersede any and all prior agreements, arrangements and understandings relating to the matters provided for herein. 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 or consent is sought. No failure or delay on the part of Buyers or Sellers in exercising any right or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power.

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

**13.6 Computation of Time.** If after making computations of time provided for in this Agreement, a time for action or notice falls on Saturday, Sunday or a federal holiday, then such time shall be extended to the next business day.

**13.7 Governing Law.** The construction and performance of this Agreement shall be governed by the laws of the State of Minnesota without regard to any choice or conflicts of law provision or rule (whether of the State of Minnesota or any other jurisdiction).

**13.8 Venue.** Each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the Courts of the State of Minnesota sitting in Hennepin or Ramsey Counties or in the absence of jurisdiction, of any federal court sitting in Hennepin or Ramsey Counties in the State of Minnesota with respect to any action or proceeding arising out of or relating to this Agreement; agrees that all claims with respect to any such action or proceeding may be heard and determined in such respective courts; and waives any objection, including, any objection to the laying of venue or based on the grounds of *forum non conveniens*, which it may now or hereafter have to the bringing of such action or proceeding in such respective jurisdictions. Each of the Parties irrevocably consents to the service of any and all process in any such action or proceeding brought in the such Courts of the State of Minnesota or in the absence of jurisdiction, such federal courts, by the delivery of copies of such process to the Party at its address specified for notices to be given hereunder, or by certified mail directed to such address. ***Each Party represents to the other Parties that this waiver is given voluntarily and with full knowledge and understanding of its legal effect after consultation with legal counsel.***

**13.9 Attorneys' Fees.** In the event of any dispute between the Parties to this Agreement, Sellers or Buyers, as the case may be, shall reimburse the prevailing Party for its reasonable attorneys' fees and other costs incurred in enforcing its rights or exercising its remedies under this Agreement. Such right of reimbursement shall be in addition to any other right or remedy that the prevailing Party may have under this Agreement.

**13.10 Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the

remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**13.11 Notices.** Any notice, demand or request required or permitted to be given under this Agreement shall be in writing and shall be addressed to the following addresses or to such other address as any Party may request:

If to Seller:	Mr. Lou Buron 1228 30 <sup>th</sup> Street NW, #S320 Bemidji, MN 56601 Telephone: 218-444-2904
with a copy to:	Gray Plant Mooty 500 IDS Center 80 South Eighth Street Minneapolis, MN 55402 Attention: David M. Morehouse, Esq. Telephone: 612-632-3270
If to any Buyer:	HBI Radio Alexandria, LLC, HBI Radio Bemidji, LLC, or HBI Radio Brainerd/Wadena, LLC 3415 University Ave St. Paul MN 55114-2099 Attention: General Counsel Telephone: 651-642-4333
with a copy to:	Stinson Leonard Street LLP 150 South Fifth Street Suite 2300 Minneapolis, MN 55402 Attention: Mark S. Weitz, Esq. Telephone: 612-335-1517

Any such notice, demand or request shall be deemed to have been duly delivered and received (i) on the date of personal delivery, (ii) on the date of receipt if mailed by registered or certified mail, postage prepaid and return receipt requested, or (iii) on the date of delivery if sent by an overnight delivery service.

**13.12 No Recourse.** This Agreement may only be enforced against, and any claim or cause of action based upon, arising out of, or related to this Agreement or the transactions contemplated hereby may only be brought against, the entities that are expressly named as

parties hereto and then only with respect to the specific obligations set forth herein with respect to such party.

**13.13 Casualty.** The risk of loss to any of the Assets on or prior to the Closing Date shall be upon Sellers. If, prior to Closing, any material portion of the Assets subject to such Closing shall be damaged or destroyed by fire or other casualty (collectively, "**Casualty**"), the Buyers may terminate this Agreement with no further obligation to Sellers, and the Escrow Amount shall be returned to Buyers or, at Buyers' option, Buyers may proceed with the Closing, provided that the Sellers shall (at the Closing) assign to Buyers all of Sellers' rights in and to any insurance proceeds which may become available as a result of the Casualty at issue, including without limitation any proceeds of business interruption insurance, and Sellers shall remain obligated to pay any deductible relating to the claim, but Sellers shall otherwise have no obligation to make any further payments hereunder.

**13.14 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.

**13.15 Facsimile or PDF Signatures.** The Parties agree that transmission to the other Party of this Agreement with its facsimile or electronic "pdf" signature shall bind the Party transmitting this Agreement thereby in the same manner as if such Party's original signature had been delivered. Without limiting the foregoing, each Party who transmits this Agreement with its facsimile or "pdf" signature covenants to deliver the original thereof to the other Party as soon as possible thereafter.

## **ARTICLE 14 DEFINITIONS**

**14.1 Defined Terms.** Unless otherwise stated in this Agreement, the following terms when used herein shall have the meanings assigned to them below (such meanings to be equally applicable to both the singular and plural forms of the terms defined).

**"Accounts Payable"** shall mean accounts payable of Sellers as of the Closing, determined in accordance with GAAP and consistent with past practice.

**"Accounts Receivable"** shall mean accounts and notes receivable of Sellers as of the Closing, determined in accordance with GAAP and consistent with past practice.

**"Affiliate"** shall mean, with respect to any specified Person, another Person that directly or indirectly controls, is controlled by, or is under common control with such specified Person.

**"Agreement"** shall have the meaning set forth in the preamble to this Agreement.

**"Alexandria Lease"** shall have the meaning set forth in Section 9.1(c)(viii).

**"Alexandria Stations"** shall have the meaning set forth in the Recitals to this Agreement.

**“Arbitron/Nielsen Contract”** shall mean that certain Radio Station License Agreement for Arbitron’s Radio County Coverage Service between Omni Broadcasting Company and Arbitron Inc. regarding the Arbitron audience estimates and data contained in Arbitron’s Radio County Coverage Service for Minnesota for the years 2013 and 2014.

**“Assets”** shall have the meaning set forth in Section 1.1.

**“Assigned Employment Agreements”** shall have the meaning set forth in Section 12.3.

**“Assignment/Assumption Agreements”** shall have the meaning set forth in Section 9.1(c)(iii).

**“Assumed Contracts”** shall have the meaning set forth in Section 1.1(d).

**“Assumed Liabilities”** shall have the meaning set forth in Section 1.3.

**“Basket”** shall have the meaning set forth in Section 10.4(a).

**“Bemidji Stations”** shall have the meaning set forth in the Recitals to this Agreement.

**“Bills of Sale”** shall have the meaning set forth in Section 9.1(c)(ii).

**“Books and Records”** shall have the meaning set forth in Section 1.1(g).

**“Brainerd Lease”** shall have the meaning set forth in Section 9.1(c)(xi).

**“Brainerd/Wadena Stations”** shall have the meaning set forth in the Recitals to this Agreement.

**“Buyer”** and **“Buyers”** shall have the meanings set forth in the preamble to this Agreement.

**“Buyer Indemnified Parties”** shall have the meaning set forth in Section 10.1.

**“Buyer Indemnifying Parties”** shall have the meaning set forth in Section 10.2.

**“Buyers’ Closing Conditions”** shall have the meaning set forth in Section 8.1.

**“Buyers’ Consultant”** shall have the meaning set forth in Section 1.6(b).

**“Claimant”** shall have the meaning set forth in Section 10.3(a).

**“Closing”** and **“Closing Date”** shall have the meaning set forth in Section 3.1.

**“Code”** shall mean the Internal Revenue Code of 1986, as amended, and the regulations thereunder, or any subsequent legislative enactment thereof, as in effect from time to time.

**“Collection and Use”** shall have the meaning set forth in Section 4.19(d).

**“Communications Act”** shall have the meaning set forth in Section 5.5.

**“Company Plans”** shall have the meaning set forth in Section 4.18(a).

**“Confidential Information”** shall have the meaning set forth in Section 12.7(b).

**“Contracts”** shall mean all contracts, agreements, leases, non-governmental licenses, employment agreements, commitments, understandings, options, rights and interests, written or oral, including any amendments, extensions, supplements and other modifications thereto, including without limitation commitments to provide advertising in exchange for goods provided to the Stations.

**“Customer Information”** shall have the meaning set forth in Section 4.19(d).

**“Deeds”** shall have the meaning set forth in Section 9.1(c)(iv).

**“Environmental Laws”** shall have the meaning set forth in Section 4.7(a).

**“Escrow Agent”** shall have the meaning set forth in Section 2.1(b).

**“Escrow Agreement”** shall have the meaning set forth in Section 2.1(b).

**“Escrow Amount”** shall have the meaning set forth in Section 2.1(b).

**“Escrow Termination Date”** shall have the meaning set forth in Section 2.1(d).

**“Excluded Assets”** shall have the meaning set forth in Section 1.2.

**“Excluded Contracts”** shall mean (i) the Arbitron/Nielsen Contract, (ii) the Square, Inc. Contract, (iii) the BringMeTheNews Contracts, (iv) the Summit Fire Protection Inspection Service Agreement, (v) the Canon Faxable Lease Agreement, (vi) the Cylinder Loan Agreement, (vii) the Lease of Site for Radio Broadcast Tower and Transmitter Building between Duane and Kristi Bessler and BG Broadcasting, Inc., successor to Robert Ingstad, dated September 10, 1990, as amended, (viii) the Antenna Site Lease dated March 1, 2000 between BG Broadcasting, successor to Kommerstad Communications, LLC, as Lessor, and ACC of Minnesota, d/b/a Cellular One, as Lessee, as amended by that First Amendment to Antenna Site Lease dated March 3, 2006 between BG Broadcasting as Lessor and American Cellular Corporation, Inc. as Lessee and that Second Amendment to Antenna Site Lease dated February 12, 2009 between BG Broadcasting and American Cellular Corporation, Inc., and (ix) the Stock Incentive Agreement between BL Broadcasting and G. Michael Boen, dated February 16, 1995.

**“Excluded Liabilities”** shall have the meaning set forth in Section 1.4.

**“FCC”** shall have the meaning set forth in the Recitals to this Agreement.

**“FCC Applications”** shall mean the applications that Sellers and Buyers must file with the FCC requesting its consent to the assignment of the FCC Licenses from Sellers to Buyers.

**“FCC Consents”** shall mean the action or actions by the FCC granting or approving the FCC Applications.

**“FCC Licenses”** shall have the meaning set forth in Section 1.1(a).

**“FCC License Assignments”** shall have the meaning set forth in Section 9.1(c)(i).

**“Final Order”** shall mean a final, non-appealable Order of the FCC or its staff that is no longer subject to administrative or judicial action, review, rehearing or appeal.

**“Financial Statements”** shall have the meaning set forth in Section 4.15.

**“Fundamental Representations”** shall have the meaning set forth in Section 10.4(a).

**“GAAP”** shall mean U.S. generally accepted accounting principles.

**“Governmental Authority”** shall mean any: (a) nation, state, county, city, town, village, district, or other recognized jurisdiction of any nature; (b) federal, state, local, municipal, foreign, or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal); (d) multi-national organization or body; or (e) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature.

**“Hazardous Substances”** shall mean any hazardous waste, as defined by 42 U.S.C. Section 6903(5), any hazardous substance, as defined by 42 U.S.C. Section 9601(33), other hazardous chemical or hazardous substance regulated by or classified as such under any Environmental Laws, or any toxic substance, oil or other petroleum-based material, asbestos containing material or other hazardous or toxic material.

**“Heartland”** shall mean Heartland Broadcast Properties, LLC, a Minnesota limited liability company.

**“Indemnified Claim”** shall have the meaning set forth in Section 10.3(a).

**“Indemnitor”** shall have the meaning set forth in Section 10.3(a).

**“Intellectual Property”** shall mean any or all of the following and all rights in, arising out of, or associated therewith (including all applications or rights to apply for any of the following, and all registrations, renewals, extensions, future equivalents, and restorations thereof, now or hereafter in force and effect): all United States, Minnesota, international, and foreign: (1) patents, utility models, and applications therefor, and all reissues, divisions, re-examinations, provisionals, continuations and continuations-in-part thereof, and equivalent or similar rights

anywhere in the world in inventions, discoveries, and designs, including invention disclosures; (2) trade secrets and other rights in know-how and confidential or proprietary information, including without limitation, vendor and supplier lists, advertiser lists, sales lists, sponsor lists, business plans and strategies, marketing materials and plans; (3) mask works, copyrights, formats, programming materials and concepts, website format and content, on air copy, on air talent concepts and jingles, and all other rights corresponding thereto (including moral rights), throughout the world; (4) rights in telephone numbers and World Wide Web addresses and domain names (including, without limitation, e-mail addresses) and applications and registrations therefor, and access and use rights with respect to any social media accounts, and contract rights therein; (5) trade names, call letters, logos, slogans, symbols, trademarks and service marks, trade dress and all goodwill, if any, associated therewith throughout the world; (6) rights of publicity and personality; and (7) any similar, corresponding, or equivalent rights to any of the foregoing in items (1) through (6) above, anywhere in the world.

**“Interim Financial Statements”** shall have the meaning set forth in Section 4.15.

**“Knowledge”** shall mean (i) in the case of Sellers, the actual knowledge of Lou Buron or Mary Campbell and (ii) in the case of Buyers, the actual knowledge of their respective President, Chief Executive Officer or Chief Financial Officer.

**“Law”** shall mean any national, federal, state, local or other law, statute, rule, regulation, ordinance, code, policy, Order, decree, judgment, consent, settlement agreement or other governmental requirement enacted, promulgated, entered into, agreed to or imposed by any Governmental Authority.

**“Lease Estoppel”** shall have the meaning set forth in Section 9.1(c)(vi).

**“Leased Real Property”** shall have the meaning set forth in Section 1.1(b).

**“Liabilities”** shall mean any liability or obligation of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of any Person or is disclosed on any Schedule to this Agreement.

**“Liens”** shall mean mortgages, deeds of trust, liens, security interests, pledges, collateral assignments, condition sales agreements, encumbrances, claims or other defects of title, but shall not include liens for current taxes not yet due and payable.

**“Loss”** or **“Losses”** shall have the meaning set forth in Section 10.1.

**“Material Adverse Effect”** shall mean any event, transaction, condition, change or effect that (individually or in the aggregate with all other such events, transactions, conditions, changes or effects) has had or would reasonably be expected to have a material adverse effect on the

Assets taken as a whole or the business of the Stations taken as a whole; *provided, however*, that for purposes of determining whether any Material Adverse Effect shall have occurred, there shall be excluded and disregarded any event, transaction, condition, change or effect resulting from or relating to (i) general business or economic conditions, or conditions generally affecting the radio broadcasting industry which do not disproportionately impact the business of the Stations, or (ii) the compliance with the terms of, or the taking of any action expressly required by, this Agreement.

**“Material Assumed Contracts”** shall have the meaning set forth in Section 1.1(d).

**“Material Consents”** shall have the meaning set forth in Section 8.1(d).

**“Monthly Reports”** shall have the meaning set forth in Section 7.9.

**“Objection Date”** shall have the meaning set forth in Section 7.11.

**“Order”** shall mean any award, decision, injunction, decree, judgment, order, ruling, subpoena, or verdict entered, issued, made, or rendered by any court, administrative agency, or other Governmental Authority or by any arbitrator.

**“Ordinary Course of Business”** shall mean an action taken by a Person will be deemed to have been taken in the “Ordinary Course of Business” only if such action is consistent with the past practices of such Person and is taken in the ordinary course of the normal day-to-day operations of such Person.

**“Organizational Documents”** means the articles of incorporation, articles of organization, certificate of organization, or similar organizational documents, including any certificate of designation for any capital stock, as amended to date, and the bylaws, operating agreement, and other similar organizational documents, as amended to date, of an entity.

**“Owned Real Property”** shall have the meaning set forth in Section 1.1(b).

**“Party”** or **“Parties”** shall refer to one or more parties to the Agreement.

**“Permit”** shall mean any permit, franchise, certificate, consent, clearance, waiver, notification, authorization, approval, registration or license granted by or obtained from any Governmental Authority in accordance with applicable Law, other than the FCC Licenses.

**“Permitted Encumbrances”** shall mean all non-material: utility easements, rights-of-way, covenants, conditions, restrictions, easements, encroachments, servitudes, minor imperfections in title, and other matters or encumbrances of record affecting title to the Real Property; provided, with respect to all of the foregoing, that such encumbrances do not, either individually or in the aggregate, interfere with or affect the use of the Real Property for the operation of the Stations in the manner currently operated.

**“Permitted Liens”** shall mean encumbrances for taxes, assessments, levies, fees or governmental charges on the Personal Property if the same shall not at the time be delinquent.

**“Person”** shall mean an individual, a partnership, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a governmental entity (or any department, agency, or political subdivision thereof).

**“Phase I Review”** shall have the meaning set forth in Section 1.6(b)(ii).

**“Personal Property”** shall have the meaning set forth in Section 1.1(c).

**“Proceeding”** shall mean any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

**“Purchase Price”** shall have the meaning set forth in Section 2.1(a).

**“Real Estate Leases”** shall have the meaning set forth in Section 4.6(b).

**“Real Property”** shall have the meaning set forth in Section 1.1(b).

**“REC”** shall have the meaning set forth in Section 7.11(a).

**“REC Objection Date”** shall have the meaning set forth in Section 7.11(a).

**“Related Documents”** shall mean the FCC License Assignments, Bills of Sale, the Assignment/Assumption Agreements, the Alexandria Lease, the Memorandum of Lease for the Alexandria Lease, the Brainerd Lease, the Memorandum of Lease for the Brainerd Lease and any other written agreement executed by Seller, Buyers or any of their respective Affiliates, as applicable, in connection with the any Closing hereunder.

**“Restricted Business”** shall have the meaning set forth in Section 12.8.

**“Restricted Period”** shall have the meaning set forth in Section 12.8.

**“Reviewed Financial Statements”** shall have the meaning set forth in Section 4.15.

**“Schedule of Exceptions”** shall have the meaning set forth in Article 4.

**“Seller”** and **“Sellers”** shall have the meanings set forth in the preamble to this Agreement.

**“Seller Indemnified Parties”** shall have the meaning set forth in Section 10.2.

**“Seller Indemnifying Parties”** shall have the meaning set forth in Section 10.1.

**“Sellers’ Closing Conditions”** shall have the meaning set forth in Section 8.2.

**“Square, Inc. Contract”** shall mean that certain contract between BL Broadcasting and Square, Inc. regarding the provision of mobile payment services, together with the Commercial Entity Agreement with JPMorgan Chase provided to all users of the Square, Inc. mobile application.

**“Station”** and **“Stations”** shall have the meanings set forth in the recitals to this Agreement.

**“Station Intellectual Property”** shall have the meaning set forth in Section 1.1(e).

**“Subject Employees”** shall have the meaning set forth in Section 12.2.

**“Survey”** shall have the meaning set forth in Section 1.6(a)(ii).

**“Tax”** shall mean all federal, state, local and foreign taxes including, without limitation, income, gains, transfer, unemployment, withholding, payroll, social security, real property, personal property, excise, sales, use and franchise taxes, levies, assessments, imposts, duties, licenses and registration fees and charges of any nature whatsoever, including interest, penalties and additions with respect thereto and any interest in respect of such additions or penalties.

**“Tax Return”** shall mean any return, filing, report, declaration, questionnaire or other document required to be filed for any period with any taxing authority (whether domestic or foreign) in connection with any Taxes (whether or not payment is required to be made with respect to such document).

**“Territory”** shall have the meaning set forth in Section 12.8.

**“Transfer Taxes”** shall mean all United States federal, state, local or foreign sales, use, transfer, real property transfer, mortgage recording, stamp duty, value-added or similar taxes, costs, or fees that may be imposed in connection with the transfer of the Assets, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.

**“Title Commitments”** shall have the meaning set forth in Section 1.6(a)(i).

**“Title Company”** shall have the meaning set forth in Section 1.6(a)(i).

**“Title Evidence”** shall have the meaning set forth in Section 1.6(a)(ii).

**“Union”** shall have the meaning set forth in Section 4.18(g).

[Signatures on Next Pages.]

IN WITNESS WHEREOF, the Parties hereto have caused this Asset Purchase Agreement to be duly executed as of the date first written above.

“Sellers”

BDI BROADCASTING, INC.

By: Louis H. Buron, Jr.  
Name: Louis H. Buron, Jr.  
Its: President

BG BROADCASTING, INC.

By: Louis H. Buron, Jr.  
Name: Louis H. Buron, Jr.  
Its: President

PAUL BUNYAN BROADCASTING CO.

By: Louis H. Buron, Jr.  
Name: Louis H. Buron, Jr.  
Its: President

BL BROADCASTING, INC.

By: Louis H. Buron, Jr.  
Name: Louis H. Buron, Jr.  
Its: President

“Buyers”

**HBI RADIO ALEXANDRIA, LLC**

By: Virginia H. Morris  
Name: Virginia H. Morris  
Its: Chair and Chief Executive Officer

**HBI RADIO BEMIDJI, LLC**

By: Virginia H. Morris  
Name: Virginia H. Morris  
Its: Chair and Chief Executive Officer

**HBI RADIO BRAINERD/WADENA, LLC**

By: Virginia H. Morris  
Name: Virginia H. Morris  
Its: Chair and Chief Executive Officer