

## LICENSE DONATION AGREEMENT

This LICENSE DONATION AGREEMENT (this "Agreement") is dated as of August \_\_\_\_\_, 2009, by and between MONTANA BROADCASTING GROUP, INC. DEBTOR IN POSSESSION, a subsidiary of EQUITY MEDIA HOLDINGS CORPORATION, DEBTOR IN POSSESSION (collectively, "Donor") and MONTANA STATE UNIVERSITY ("Donee").

WITNESSETH:

WHEREAS, Donor was the licensee of low power TV station KEXI-LP, Kalispell, Montana, FCC Facility ID Number 40102 (the "Station"), pursuant to authorizations issued by the Federal Communications Commission (the "FCC");

WHEREAS, Donor surrendered the FCC license for the Station by letter dated July 14, 2009, and the FCC cancelled the Station's license on July 17, 2009;

WHEREAS, Donor filed a Petition for Reconsideration of the cancellation of the Station's license on August 17, 2009;

WHEREAS, contingent upon reinstatement of the Station's license, Donor desires to donate, transfer, assign, and convey the Station license to Donee, and Donee desires to acquire the Station license from Donor for the purpose of providing an off-air public television service to the community of license; and

WHEREAS, Donor and Donee agree that such donation will serve the public interest, convenience and necessity by preserving off-air service and providing first-ever public television service to the community of license.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Donation of Assets.** On the Closing Date (as hereinafter defined), Donor agrees to donate, transfer, assign, and convey to Donee all of the right, title and interest of Donor in and to the following assets of Donor (the "Assets"): all FCC licenses, permits and authorizations to operate the Station (the "FCC Authorization") together with all licenses, permits and authorizations issued by any other governmental authority in connection with the operation of the Station, as set forth on Schedule 1.

2. **Consideration.** At Closing, Donee will reimburse Donor's reasonable out of pocket costs (including reasonable attorney's fees) for the reinstatement of the Station's license and the implementation of this Agreement, up to a cap of \$5,000. The Parties agree that no other consideration is to be paid from Donee to Donor for the donation of the Assets.

3. **FCC Consent; Assignment Application.** It is specifically understood and agreed by Donee and Donor that the assignment of the FCC Authorization is subject to the prior consent of the FCC ("FCC Consent"). Within ten (10) business days after execution of this Agreement, Donee and Donor shall jointly file with the FCC an application for assignment of the

FCC Authorization (the "Assignment Application") from Donee to Donor. Donee and Donor shall thereafter prosecute the Assignment Application with all reasonable diligence and otherwise use their best efforts to obtain the grant of the Assignment Application as expeditiously as practicable.

4. **Closing Date.** The closing (the "Closing") of the transactions contemplated by this Agreement shall occur on a date mutually agreed upon by Donee and Donor within fourteen (14) days following the date on which the FCC releases Public Notice of grant of the FCC consent. In the event the Closing shall not have occurred by March 1, 2010, either party may terminate this Agreement, provided that the terminating party is not in material default of this Agreement.

5. **Donor's Representations, Warranties and Other Obligations.** Donor represents and warrants that:

(a) Donor is a corporation in the State of Arkansas. Donor has the right, power and authority, and has taken all necessary action, to enter into this Agreement and to fully perform all of its obligations under this Agreement.

(b) Donor is the authorized legal holder of the Assets.

(c) At Closing, Donee shall receive clear and unencumbered title to the Assets.

6. **Donee's Representations and Warranties.** Donee represents and warrants that Donee is a public institution of higher education in the State of Montana, and that Donee has the right, power and authority, and has taken all necessary action, to enter into this Agreement and to fully perform all of its obligations under this Agreement.

7. **Further Assurances.** Each party shall, from time to time at the request of, and without further cost or expense to the other, execute and deliver such other instruments and take such other actions as may reasonably be requested in order to more effectively consummate the transactions contemplated hereby.

8. **Conditions Precedent to Obligation to Close.**

(a) The performance of the obligations of Donor hereunder are subject to the satisfaction of each of the following express conditions precedent:

(i) Donee shall have performed and complied in all material respects with all of the agreements, obligations and covenants required by this Agreement to be performed or complied with by Donee prior to or as of the Closing Date.

(ii) The representations and warranties of Donee set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date.

(iii) The FCC shall have reinstated the license for the Station.

(iv) The FCC Consent shall have been issued without any condition that would have a material adverse effect upon Donor.

(b) The performance of the obligations of Donee hereunder are subject to the satisfaction of each of the following express conditions precedent:

(i) Donor shall have performed and complied in all material respects with all the agreements, obligations and covenants required by this Agreement to be performed or complied with by Donor prior to or as of the Closing Date.

(ii) The representations and warranties of Donor set forth in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of the Closing Date.

(iii) The FCC shall have reinstated the license for the Station.

(iv) The FCC Consent shall have been issued without any condition that would have a material adverse effect upon Donee.

9. **Closing Deliveries.** At the Closing, Donor shall deliver to Donee such documents, instruments and agreements as Donee shall request and as shall be reasonably necessary to consummate the transactions contemplated by this Agreement, each in form and substance reasonably satisfactory to counsel for Donee.

10. **Miscellaneous.**

(a) This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their heirs, successors, executors, legal representatives and assigns, provided however that neither party hereto may voluntarily assign this Agreement without the express written consent of the other party.

(b) Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the parties hereto and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

(c) The construction and performance of this Agreement shall be governed by the laws of the State of Montana.

(d) The Parties acknowledge that the Station has not broadcast since March 26, 2009, and the Station's FCC license will be automatically cancelled as a matter of law if the Station does not broadcast for twelve consecutive months.

(e) This Agreement embodies the entire agreement and understanding of the parties hereto relating to the matter provided for herein, and supersedes any and all prior agreements, arrangements and understandings relating to the matters provided for herein.

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

(g) The representations and warranties shall survive the Closing Date for a period of for twelve months.

11. **Indemnification by Donor.** Donor shall indemnify and hold harmless Donee against and in respect of:

(a) **Operations Prior to Closing.** Any and all liabilities, obligations, claims, and demands arising prior to the Closing Date out of: the right to own or operate the Station (including, but not limited to, claims related to compliance with FCC rules and regulations), any breach by Donor of this Agreement, or any inaccuracy in or breach of any representation, warranty, or covenant made by Donor herein.

(b) **Defense.** Should any claim covered by the foregoing indemnity be asserted against Donee, Donee shall notify Donor promptly and give it an opportunity to defend the same and Donee shall extend reasonable cooperation to Donor in connection with such defense. In the event that Donor fails to defend the same within a reasonable time, Donee shall be entitled to assume, but need not assume, the defense thereof and Donor shall be liable to repay Donee for all damages suffered by Donee and all of its expenses reasonably incurred in connection with such defense (including, but not limited to, reasonable attorney fees and settlement payments).

12. **Indemnification by Donee.** To the extent permitted by Montana state law, Donee shall indemnify and hold harmless Donor against and in respect of:

(a) **Operations after Closing.** Any and all liabilities, obligations, claims, and demands arising after the Closing Date out of: the right to own or operate the Station (including, but not limited to, claims related to compliance with FCC rules and regulations), any breach by Donee of this Agreement, or any inaccuracy in or breach of any representation, warranty, or covenant made by Donee herein.

(b) **Defense.** Should any claim covered by the foregoing indemnity be asserted against Donor, Donor shall notify Donee promptly and give it an opportunity to defend the same, and Donor shall extend reasonable cooperation to Donee in connection with such defense. In the event Donee fails to defend the same within a reasonable time, Donor shall be entitled to assume, but need not assume, the defense thereof, and Donee shall be liable to repay Donor for all damages suffered by Donor and all its expenses reasonably incurred in connection with such defense (including, but not limited to, reasonable attorney fees and settlement payments).

13. **Notices.** Any notices, requests, demands, or consents required or permitted to be given hereunder shall be deemed to have been given on the date of personal service or on the date of receipt by the party to whom such notice is to be given, and shall be sent via email or overnight delivery addressed to the addressee at the physical or email address stated below, or at the most recent such addresses specified by notice under this section:

If to Donor to:

Equity Media Holdings Corporation  
1 Shackleford Drive, Suite 400  
Little Rock, AR 72211  
Tel: (501) 219-2400  
Fax: (501) 221-1101  
Email: cvaughn@ebcorp.net

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

Peter Tannenwald, Esq.  
Fletcher Heald & Hildreth  
1300 North 17<sup>th</sup> Street, 11 Floor  
Arlington, VA 22209  
Tel: (703) 812-0404  
Fax: (703) 812-0486  
Email: tannenwald@fhhlaw.com

If to Donee, to:

Montana State University  
Station KUSM-TV  
Visual Communications Bldg. 183  
Bozeman, MT 59717  
Attn: Dean Lawver  
Tel: (406) 994-3437  
Fax: (406) 994-6545  
Email: dean\_lawver@montanapbs.org

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

Margaret L. Miller, Esq.  
Dow Lohnes PLLC  
1200 New Hampshire Avenue, NW  
Suite 800  
Washington, DC 20036-6802  
Tel: 202-776-2914  
Fax: 202-776-4914  
Email: mmiller@dowlohn.com

14. **Termination.**

(a) **Termination by Donor.** This Agreement may be terminated by Donor and the transfer of the Assets abandoned, if Donor is not then in material default, upon thirty (30) days written notice to Donee.

(b) **Termination by Donee.** This Agreement may be terminated by Donee and the transfer of the Assets abandoned, if Donee is not then in material default, upon thirty (30) days written notice to Donor.

15. **Specific Performance.** The parties recognize the uniqueness of the Station and the Assets, and for that reason agree that Donor shall have the right to specific performance of this Agreement upon default of Seller.

16. **Headings.** The headings in this Agreement are inserted for convenience only and shall not constitute a part hereof.

17. **Counterparts.** This Agreement may be signed in counterpart originals, which collectively shall have the same legal effect as if all signatures had appeared on the same physical document. This Agreement may be signed and exchanged by facsimile transmission, with the same legal effect as if the signatures had appeared in original handwriting on the same physical document.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

**MONTANA BROADCASTING GROUP, INC.  
DEBTOR IN POSSESSION, a subsidiary of EQUITY  
MEDIA HOLDINGS CORPORATION. DEBTOR IN  
POSSESSION**

By: Connie Vaughn  
Name: *Connie Vaughn*  
Title: *ASST. Corporate Secretary*

**MONTANA STATE UNIVERSITY**

By: Eric Hyppa  
Name: *ERIC HYPPA*  
Title: *GENERAL MANAGER, KUSM*

## SCHEDULE 1

### FCC Authorizations

<u>Station Call Sign</u>	<u>Facility ID Number</u>	<u>Station Location</u>	<u>File Numbers</u>	<u>Expiration Date</u>
KEXI-LP*	40102	Kalispell, MT	BLTTL-19990713JE BLSTA-20090410ABE (Silent since 3/26/2009)	04/01/2014^ 9/26/2009

\*call sign pending reinstatement from DKEXI-LP

^license expiration date pending reinstatement from license cancellation